

The Customs Code of Ukraine

(SECTION 1 - SECTION IV)

As amended by laws of Ukraine

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The Customs Code of Ukraine defines the foundation and implementation principles of customs practice in Ukraine, and regulates economic, organizational, legal, personnel and social aspects of the activities of the customs service of Ukraine. The Code aims to secure the protection of Ukraine's economic interests, to create favorable conditions for the development of its economy, to protect the rights and interests of subjects of entrepreneurial activity and citizens, as well as to ensure adherence to Ukrainian customs-related legislation.

SECTION 1

GENERAL PROVISIONS

Chapter 1. THE FOUNDATIONS OF CUSTOMS PRACTICE

Article 1. Definition of Basic Terms and Concepts

The terms and concepts listed below are used in this Code in the following meaning:

1) currency values:

currency of Ukraine - token money in the form of bank notes, treasury notes, coins and other forms, which are in circulation and are legal tender on the territory of Ukraine, as well as those withdrawn or being withdrawn from circulation, but are subject to exchange for token money in circulation;

foreign currency – foreign token money in the form of bank notes, treasury notes and coins, which are in circulation and are legal tender on the territory of the respective foreign state, as well as those withdrawn or being withdrawn from circulation, but are subject to exchange for token money in circulation;

payment documents and other securities (shares , bonds, coupons thereto, bills of exchange (promissory notes), bills of debt, letters of credit, checks, banker's order , certificates of deposit, other financial or bank documents), denominated in the Ukrainian currency, foreign currency or bank metals;

bank metals – gold, silver, platinum, metals of the platinum group, refined (affinaged) to the highest grades in accordance with world standards, in ingots and powder, which possess certificates of quality, as well as coins, manufactured of precious metals.

2) bringing goods and vehicles into/outside the customs territory of Ukraine – the totality of actions connected with the movement of goods and vehicles through the customs border of Ukraine in a particular direction;

3) free circulation – free from customs control disposal of goods that have been permitted to cross the customs border of Ukraine;

4) citizens – natural persons: citizens of Ukraine, foreign citizens, stateless persons;

5) declarant – a legal entity or a natural person, who declares goods or vehicles which are crossing the customs border of Ukraine;

6) declaration of customs value – a statement from a person to a customs authority in an established form, giving information as to the customs value of goods, which are crossing the customs border of Ukraine or with regard to which the customs regime is subject to change;

7) express carrier – transportation or forwarding company set up in accordance with the current legislation of Ukraine, which carries out express transportation of international cargoes and has worldwide network with a system of central and regional yards, as well as a computerized system to track such cargoes within the entire period of delivery from a consignor to a consignee;

8) zone of customs control – a place established by the customs authorities and located at the entry points on the customs border of Ukraine or other locations on the customs territory of Ukraine, within which customs procedures are carried out by the customs authorities;

9) zone of simplified customs control – a part of a zone of customs control technically and informationally equipped to carry out simplified customs control procedures;

10) infringing goods – goods containing objects of intellectual property, which, if brought into/from the customs territory of Ukraine, cause violation of the owner's rights protected by current Ukrainian legislation and international agreements of Ukraine, concluded in conformity with the procedure established by law;

11) cultural values – objects of material and spiritual culture possessing artistic, historical, ethnographic or scientific significance and subject to preservation, restoration and protection in accordance with Ukrainian legislation;

12) customs declaration – a written statement of a standard form submitted to a customs authority and containing information necessary for the customs clearance or re-clearance for goods and vehicles crossing the customs border of Ukraine;

13) customs instruments – numbered locking and sealing devices, seals, stamps, holographic signs and other identification marks, which can be used one-time only by the customs authorities to reflect and confirm the results of customs control and customs clearance;

14) customs clearance – the execution by customs authorities of certain actions (procedures), related to the confirmation of results of customs control of goods and vehicles crossing the customs border of Ukraine, and having juridical force for the further utilization of these goods and vehicles;

15) customs control – the totality of measures taken by customs authorities within their competence with the aim of ensuring the compliance with norms of this Code, laws and other legal and normative acts dealing with customs practice, and international agreements of Ukraine, concluded in keeping with the procedure established by law;

16) customs regime – the totality of norms, established by the laws of Ukraine on customs practice, which, depending upon the declared aim of movement of goods and vehicles through the customs border of Ukraine, determine the procedure for such movement and the extent of customs procedures conducted therewith;

17) customs authorities – specially authorized bodies of executive power in the area of customs practice, which according to this Code and other laws of Ukraine, shall directly carry out customs practices;

18) customs rules – the procedure for moving goods and vehicles through the customs border of Ukraine established by the legislation of Ukraine;

19) customs procedures – operations connected with the implementation of customs control over the movement of goods and vehicles through the customs border of Ukraine, the customs clearance of these goods and vehicles, as well as collection of taxes and fees envisaged by law;

20) non-residents – citizens who permanently reside outside Ukraine, including those who temporarily stay on the territory of Ukraine; legal entities, subjects of entrepreneurial activity without the status of a

legal entity (branches, representative offices, et alia) and based outside Ukraine, which have been established and act in accordance with the legislation of a foreign state, including legal entities and other subjects of entrepreneurial activity with the participation of Ukrainian legal entities and subjects of entrepreneurial activity of Ukraine; located on the territory of Ukraine diplomatic missions, consular offices, trade and other official representatives of foreign countries, international organizations and their branches, which enjoy immunity and diplomatic privileges, as well as representative offices of other foreign organizations and companies, which, according to the legislation of Ukraine, do not conduct entrepreneurial activity;

21) persons – legal entities and natural persons;

22) carrier – a person, registered as a subject of entrepreneurial activity, who, according to the procedure established by law and by his own or hired means of transportation, moves the goods across the customs border of Ukraine or transports the goods under customs control, between the customs authorities within the territory of Ukraine;

23) movement of goods through the customs border of Ukraine in cargo shipments – movement of goods through the customs border of Ukraine in the course of fulfillment of export-import operations, as well as other operations, associated with bringing goods into/outside the customs territory of Ukraine, or moving those through the customs territory of Ukraine en route (as transit). A customs cargo declaration must be issued for moving goods through the customs border of Ukraine in cargo shipments;

24) movement of goods through the customs border of Ukraine in international postal consignments – movement of goods through the customs border of Ukraine in the form of letters, printed matters, special bags marked "M", small packets, parcels, shipments of express mail marked "EMS" arriving, departing or transiting Ukraine via postal service enterprises and packed in accordance with the requirements of the Universal Postal Union and the Rules on Utilization of Postal Services.

25) movement of goods through the customs border of Ukraine in international express mail – movement of goods and other articles packed in a due manner and transported by an express carrier by any type of transport to deliver to a consignee within the determined period;

26) movement of goods through the customs border of Ukraine in unaccompanied luggage – movement of goods belonging to citizens through the customs border of Ukraine, separately from these citizens or from persons authorized by the citizens, with luggage documents being filed;

27) movement of goods through the customs border of Ukraine in hand luggage – movement of goods belonging to citizens through the customs border of Ukraine in the passenger sectors (saloons) of

vehicles, which transport the citizens or persons authorized by the citizens, without filing of luggage documents;

28) movement of goods through the customs border of Ukraine in accompanied baggage – movement of goods belonging to citizens through the customs border of Ukraine in the baggage compartments of vehicles transporting the citizens or persons authorized by the citizens, with luggage documents being filed;

29) enterprise – any legal entity or any citizen carrying out entrepreneurial activity without establishing a legal entity;

30) enterprise officials – managerial staff and personnel of enterprises, residents and non-residents, who in the course of permanent or temporal fulfillment of their work (office) duties bear responsibility for the implementation of requirements established by this Code, laws and other normative and legal acts of Ukraine, as well as by international agreements of Ukraine on customs issues concluded according to the procedure established by law;

31) officials of representative offices of foreign states and international organizations – accredited in Ukraine: heads of diplomatic missions and diplomatic personnel, consular officials, representatives of foreign states at international organizations, officials of international organizations;

32) intellectual property right, subjects of the right and objects of the intellectual property right – shall be understood as defined by laws dealing with the intellectual property issues;

33) items – personal belongings, goods, vehicles and some certified units thereto moved through the customs border of Ukraine;

34) representation of a foreign company – a person accredited in Ukraine in conformity with the procedure established by the legislation and duly empowered to represent the interests of a non-resident legal entity in Ukraine;

35) release of goods and vehicles from the customs border of Ukraine – permission from customs authorities for the movement of goods and vehicles through the customs border of Ukraine with consideration of the declared aim of such movement given after accomplishment of customs procedures;

36) residents – citizens permanently residing in Ukraine, including those who are temporarily abroad; legal entities and subjects of entrepreneurial activity without the status of a legal entity (branches, representative office et alia) located on the territory of Ukraine, which have been founded and carry out

their activities in keeping with the legislation of Ukraine; diplomatic missions, consulates, trade missions and other official representative offices of Ukraine abroad, which enjoy immunity and diplomatic privileges, as well as branches and representative offices of resident companies abroad, which do not engage in entrepreneurial activity;

37) specially prepared (secret) hiding-place – a hiding-place prepared with the aim of unlawful moving of goods through the customs border of Ukraine, as well as constructional containers and items equipped or modified for this purpose previously disassembled or mounted etc.;

38) coaster – a vessel which without calling at a foreign port carries out coasting transportation amid the Ukraine's ports, or a vessel of Fish Industry Fleet involved in fishery activities within Azov-Black Sea basin;

39) goods – any movable property (including currency values, cultural values), electrical, heat and other energy, as well as vehicles, except the vehicles used exclusively for the purpose of transportation of citizens and goods through the customs border of Ukraine;

40) vehicles – any aircraft, vessel, railroad or motor vehicle used exclusively for the movement of citizens and goods through the customs border of Ukraine;

41) authorized person – a person, who, on the basis of an agreement or duly executed power of attorney, issued by the owner of goods and vehicles, is authorized to commit actions with regard to representing the goods and vehicles to customs authorities for customs control and customs clearance during their movement through the customs border of Ukraine, or who is authorized to dispose of the goods and vehicles in another manner.

Article 2. Customs Policy

Customs policy is the system of principles and directions of the state's activities in the field of safeguarding its economic interests and safety with the help of customs-tariff and non-tariff measures of foreign trade regulation.

Article 3. Customs Practice

Customs practice includes: the procedure for movement of goods and vehicles through the customs border of Ukraine; customs regulations connected with imposition and collection of taxes and fees; procedures for customs control and customs clearance; combating, fighting contraband and violations of customs rules; other measures aimed at the implementation of the state customs policy of Ukraine.

Customs practice is an integral part of Ukraine's foreign policy and foreign economic activity. Ukraine in its customs practice adheres to: the internationally recognized systems of classification and coding of goods; customs information; a single form for declaring export and import of goods; and to other international norms and standards.

Only Ukrainian laws and this Code determine the principles for customs practice including amounts of taxes and fees and conditions of levying thereof, special customs zones and customs regimes (treatment) on the territory of Ukraine, the list of goods whose export, import and transit through the Ukraine's territory is prohibited.

The Cabinet of Ministers of Ukraine: organizes and ensures the adherence to this Code and the laws of Ukraine, as well as to international treaties concluded in conformity with the procedure established by law in conducting customs practice; coordinates the activities of the specially authorized central body of executive power in the area of customs practice and other state authorities in resolving the issues relating to customs practice.

The specially authorized central body of executive power in the area of customs practice is empowered with direct coordination of customs practice.

Article 4. Principles of Customs Regulation

The principles for customs regulation are:

- 1) Exclusive jurisdiction of Ukraine on its customs territory;
- 2) Exclusive competence of Ukrainian customs authorities in the implementation of customs practice;
- 3) Legality;
- 4) Single procedure of movement of goods and vehicles through the customs border of Ukraine;
- 5) System approach;
- 6) Efficiency;
- 7) Observance of rights and legally protected interests of natural persons and legal entities;
- 8) Openness and transparency.

Article 5. Customs Territory of Ukraine

The territory of Ukraine comprising the land, territorial sea, internal waters and airspace, as well as artificial islands, buildings and constructions established within the special sea economic zone of Ukraine and regulated by the exclusive jurisdiction, constitute the single customs territory of Ukraine.

The territories of special customs zones located in Ukraine, are considered to be located beyond the borders of the customs territory of Ukraine, except those cases, which are defined by this Code or other laws of Ukraine.

Article 6. The Customs Border of Ukraine

The bounds of the customs territory of Ukraine are the customs border of Ukraine. The customs border of Ukraine coincides with the state border of Ukraine, except the free zones' borders. Borders of the free zones constitute the customs border of Ukraine.

Article 7. Ukrainian Customs Legislation

The legislation of Ukraine on customs practice is comprised of the Constitution of Ukraine, this Code, and laws and other normative legal acts on customs practice, which have been published on the basis of and for the implementation of the Constitution of Ukraine, this Code and the laws of Ukraine.

If any international treaty of Ukraine concluded according to the procedure established by law sets forth other rules than those stipulated by this Code the rules of international treaty shall apply.

Article 8. The Flag and the Identification Symbol of the Customs Service of Ukraine

The customs authorities, specialized customs institutions and organizations, the sea and river vessels in their service - possess their own flag. Transport vehicles and aircraft, which are in the service of the customs authorities and specialized customs institutions and organizations, possess their own identification symbol.

Article 9. Peculiarities of Enactment of Laws and Other Normative Legal Acts on Customs Practice

The laws of Ukraine on customs practice enter into force ten days after their official presentation, unless otherwise is provided by such laws, but not earlier than the day of their official publication.

Other normative legal acts on customs practice enter into force forty-five days after their official publication, unless otherwise is provided by such acts, but not earlier their official publication. Should such official normative legal acts be officially unpublished, they shall not enter into force.

Official publication of a law and other normative legal act on customs practice is the publication thereof in one of the official periodicals determined by Ukrainian legislation. The date of official publication of a normative legal act is considered to be the date of release of the relevant issue of that official publication, in which the said act was published earlier than in other official publications.

The period to enter laws or normative legal acts on customs practice into force begins at 00:00 hours of the day following their official publication, and expires at 24:00 hours of the final day of the said period.

If the enactment period of a law or other normative legal act on customs practice is defined by a specified day of their official publication, the law or act is considered to have entered into force from 24:00 hours of the day specified.

If the enactment period of a law or other normative legal act on customs practice is defined by a specified date, the law or act is considered to have entered into force at 00:00 hours on the date specified.

Article 10. Peculiarities of Operation of the Legislation on Customs Practice in Time.

Only those normative-legal acts, which are in force on the day of acceptance of customs declaration by the customs authorities of Ukraine, regulate customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine.

In cases, where valid legislation permits the conduct of customs procedures without submitting a declaration, the procedure is regulated by legislation effective on the day of conducting the procedure.

Laws, which reduce or cancel responsibility for the violation of customs rules and other violations enumerated in this Code, are (have retroactive effect) *ex pre facto*, that is they also apply to violations committed prior to the adoption of these laws. Laws, which establish or increase the responsibility for such violations, are (have no retroactive effect) *not ex post facto* that is they do not apply to violations committed prior to the adoption of these laws.

Proceedings on customs violations are conducted on the basis of the legislation effective during the time when the case on violation is being considered.

CHAPTER 2. THE STRUCTURE AND ORGANIZATION OF ACTIVITIES OF THE CUSTOMS SERVICE OF UKRAINE

Article 11. Implementation of customs practice

The direct implementation of customs practice is delegated to the customs authorities of Ukraine.

In implementing the customs policy of Ukraine the customs authorities fulfill the following basic tasks:

- 1) implement and control over compliance with the legislation of Ukraine on customs;
- 2) protect Ukraine's economic interests;
- 3) secure implementation of obligations prescribed by international agreements on customs practice to which Ukraine is a party;
- 4) assist the defense of intellectual property rights of people involved in foreign economic activity, and other legal entities and natural persons;
- 5) apply, in accordance with the law, tariff and non-tariff regulatory measures upon movement of goods through the customs border of Ukraine;
- 6) implement customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine, and improve the means and forms of such implementation;
- 7) control compliance with the rules of movement of currency values through the customs border of Ukraine;
- 8) implement, in cooperation with other authorized state power bodies, the measures aimed at securing the interest of goods consumers, and at ensuring that participants in foreign economic relations adhere to the state interests on the external market;
- 9) create favorable conditions for speeding up the goods turnover and flow of passengers through the customs border of Ukraine;
- 10) fight against contraband and violations of customs rules;
- 11) develop international cooperation in the area of customs practice;
- 12) compile customs statistics;
- 13) maintain the Ukrainian Classification of Commodities of Foreign Economic Activity;

14) verify (ascertain the authenticity of) certificates of origin of goods from Ukraine.

State power bodies, the President of Ukraine within his authorities defined by the Constitution of Ukraine and laws of Ukraine shall run the customs practice and control activities of customs authorities of Ukraine.

Article 12. Customs Service of Ukraine

Customs service of Ukraine is the integral national system consisting of customs authorities and specialized customs institutions and organizations.

Customs authorities are: specially authorized central body of executive power in the area of customs practice, regional customhouses and customhouses.

Article 13. Specially Authorized Central Body of Executive Power in the Area of Customs Practice

The specially authorized central body of executive power in the area of customs practice can be created, re-organized and liquidated by the President of Ukraine on proposal of the Prime Minister of Ukraine.

The specially authorized central body of executive power in the area of customs practice directs, coordinates, and controls the activities of customs authorities, specialized customs institutions and organizations in implementing the laws of Ukraine on customs practice, and within its authority issues orders, and organizes and controls compliance therewith.

The specially authorized central body of executive power in the area of the customs practice is a legal entity and it acts in accordance with the Constitution of Ukraine, this Code, laws of Ukraine and other normative legal acts .

The following bodies are subordinated to the specially authorized central body of executive power: regional customhouses, customhouses, specialized customs institutions and organizations.

The specially authorized central body of executive power in the area of customs practice is headed by a chairman, who is appointed and relieved of his appointment by the President of Ukraine in accordance with the procedure set forth by the Constitution of Ukraine.

Article 14. Regional Customhouse

A regional customhouse is a customs authority that within the territory of the fixed to it region conducts customs practice and ensures comprehensive compliance with the laws of Ukraine on customs practice,

and supervises and co-ordinates the activities of customhouses and specialized customs organizations and bodies/institutions subordinated to it.

A regional customhouse is a legal entity and conducts its activities in accordance with the legislation of Ukraine and the Regulations approved by the order of the specially authorized central body of executive power on customs practice.

The regional customhouses are established, reorganized and liquidated by the specially authorized central body of executive power on customs practice.

The head of a regional customhouse is appointed and removed by the head of the specially authorized central body of executive power on customs practice.

Article 15. Customhouse

Customhouse is the customs authority directly responsible for implementing legislation on issues of customs practice, collection of taxes and fees and execution of other assignments given to the customs service of Ukraine.

A customhouse is a legal entity and conducts its activities in accordance with the legislation of Ukraine and the Regulation approved by the order of the specially authorized central body of executive power on customs practice.

Customhouses are subordinated to the regional customhouses and the specially authorized central body of executive power on customs practice or to the specially authorized central body of executive power on customs practice directly.

Customhouses are established, re-organized and liquidated by the specially authorized central body of executive power on customs practice.

Customhouse operates within the territory, which is determined by the specially authorized central body of executive power on customs practice.

Customs posts may be formed as the structural sub-units of customhouses at the customs border crossing points of Ukraine and at other locations and territories with extensive foreign economic transactions.

The head of a customhouse is appointed and relieved of the appointment by the head of the specially authorized central body of executive power on customs practice.

Article 16. Customs Post

Customs posts may be established for the purpose of assuring the implementation of tasks by regional customhouses and customhouses, as required by this Code and other laws of Ukraine.

A customs post is a structural sub-unit of the regional customhouse or customhouse, which is directly in charge of customs control and clearance of goods and vehicles crossing the customs border of Ukraine.

Customs posts are established as necessary in populated areas, at railway stations, in airports, sea and river ports and other sites located in the zone of operations of a regional customhouse or customhouse.

A Standard Regulation on customs posts is approved by the order of the specially authorized central body of executive power on customs practice.

The customs posts are established, reorganized and liquidated by the specially authorized central body of executive power on customs practice at the request of a regional customhouse or customhouse. The head of a customs post is appointed and dismissed by the head of the specially authorized central body of executive power on customs practice.

Article 17. Specialized Customs Institutions and Organizations

Within budget funds prescribed for maintaining customs service of Ukraine and exclusively with the aim of ensuring execution of the tasks delegated to the customs bodies, according to this Code and laws of Ukraine, the following types of institutions and organizations may be created within the customs service of Ukraine: operational, transport, information-analytical, cynology [dog-training] specialized establishments and educational organizations.

The specialized customs bodies and organizations are established, reorganized and liquidated by the specially authorized central body of executive power on customs practice, as it is determined by this Code and laws of Ukraine.

Article 18. Customs Laboratories

Within the customs system of Ukraine the Central Customs Laboratory is created, with the status of a specialized customs body, and customs laboratories, as structural sub-units of regional customhouses and customhouses.

The Central Customs Laboratory is in charge of scientific and methodological activities of the customs laboratories.

The Central Customs Laboratory and customs laboratories are granted the right to conduct expert activities within competency of the customs service.

The creation, reorganization and liquidation of the Central Customs Laboratory and customs laboratories is conducted by the specially authorized central body of executive power on customs practice.

The Regulation on the Central Customs Laboratory and the Regulation on Customs Laboratories are confirmed by the order of the specially authorized central body of executive power on customs practice.

Article 19. The Customs Guard

The customs guard is a special unit of the State Customs Service of Ukraine, assigned with: combating contraband and violations of customs rules; ensuring the security of territories, buildings, constructions and facilities of the customs authorities; protecting and escorting goods and vehicles, securing regime in the zones of customs control.

Article 20. Organization of the Customs Guard

The Customs Guard conducts its activities on the basis of this Code, the Regulation, confirmed by the specially authorized central body of executive power on customs practice.

The units of the Customs Guard are headed by the head of the specially authorized central body of executive power on customs practice and in the regional customhouses and customhouses - by their heads.

Personnel of the Customs Guard may be equipped with arms and special devices, transport, radio and phone communication, also with other equipment according to this Code, laws and other normative legal acts.

Article 21. Tasks of the Customs Guard

The tasks of the customs guard are the following:

1. take measures regarding detection, disclosing, prevention, combating and precaution of violation of customs rules;
- 2) secure buildings, constructions, premises of the customs bodies and other objects of the customs infrastructure, zones of customs control from any illicit encroachment;
- 3) physical protection of the personnel of customs bodies, other persons, goods, who/which are in the zone of customs control, from illicit actions;

- 4) localization along with other bodies of conflict situations in the zones of customs control;
- 5) participation in elimination of the consequences of catastrophes, damages, acts of God and ecological pollution in the zone of customs control.

Article 22. Rights of the Customs Guard

In order to properly fulfill their tasks, as it is prescribed in the Article 21 of this Code, customs guard has the right to:

1. install temporary posts, move upon any land and water sectors within the customs territory of Ukraine, but within controlled border area – upon approval of the respective border guards body of Ukraine;
2. stop and examine according to the provisions of this Code goods, vehicles and citizens, crossing the customs border of Ukraine in the border-crossing points;
3. conduct, as prescribed by this Code, examination and re-examination of after customs clearance by customs authorities goods and vehicles including those transiting the territory of Ukraine upon decision of the head of the specially authorized central body of executive power on customs practice, his deputies, head of the regional customhouse (customhouse);
4. escort and secure goods under customs control including those transiting the territory of Ukraine;
5. ask people to visit customs offices in order to find out the circumstances of the violations of customs rules. In urgent cases they have the right to clarify the circumstances of the violations of customs rules in other places suitable for that purpose, as well as to carry out primary documentation of such facts.

Article 23. Allocation of the Customs Guard

Customs guard is located, as a rule, in the places where regional customhouses are located.

Upon the decision of the head of the specially authorized central body of the executive power on customs practice personnel, transport, arms and special devices of the customs guard in cases of operational necessity may be temporarily relocated to other regions of Ukraine out of the place of the permanent location.

Article 24. Property, Financing and Material-Technical Support for Customs Authorities, and Specialized Customs Institutions and Organizations

The property of customs authorities and specialized customs institutions and organizations is the state property (of Ukraine). This property is managed by the Cabinet of Ministers of Ukraine in accordance with the procedure established by law.

Financing, material-technical support and development of the infrastructure of the customs service of Ukraine is carried out from the state budget of Ukraine.

Article 25. Land Plots, Office and Accommodation Spaces, Equipment and Communication Facilities, Means of Customs Authorities, Specialized Customs Institutions and Organizations

Land plots for official use, including those necessary for the creation of zones of customs control, are given to customs authorities, and specialized customs institution and organizations in perpetuity according to the Land Code of Ukraine. Reimbursement for owners and users of land for damages incurred by the requisitioning of their land is done according to the law.

If the customs clearance of goods and vehicles is conducted by customs authorities directly at or on the territory of enterprises, these enterprises, regardless of their form of ownership and subordination, must

provide the customs authorities with the appropriate office and accommodation spaces, as well as necessary equipment and communications facilities, means free of charge.

CHAPTER 3. RELATIONS OF CUSTOMS AUTHORITIES, SPECIALIZED CUSTOMS INSTITUTIONS AND ORGANIZATIONS WITH OTHER STATE POWER BODIES, LOCAL SELF-GOVERNMENT BODIES, ENTERPRISES, AND CITIZENS

Article 26. Relations of Customs Authorities, Specialized Customs Institutions and Organizations, and their Official Personnel with Other State Power Bodies, Local Self-Government Bodies, Enterprises, and Citizens

Customs authorities, specialized customs institutions and organizations and their official personnel, when conducting official duties, collaborate in accordance with the procedure set forth by legislation with other state power authorities, bodies of local self-government as well as enterprises and citizens.

Customs brokers, acting on the basis of the relevant agreement concluded with an enterprise, or a notarized power of attorney from an individual, may represent that enterprise or individual at the customs authorities.

In case of detection by personnel of a customs authority of a violation in the course of conducting customs procedures, a head of a customs authority or a person acting for him, informs about this fact the relevant law enforcement bodies or Border Guards bodies.

Border Guards bodies and law enforcement bodies inform customs authorities about detected violations of customs rules or contraband.

Article 27. The Relationship between the Customs Authorities and Other State Power Bodies Implementing Control during the Movement of Goods through the Customs Border of Ukraine

Goods being moved the customs border of Ukraine may undergo, in addition to customs control, the following types of control: sanitary-quarantine, veterinary, phytosanitary, radiological, ecological control and cultural values control. Customs authorities collaborate with other state power authorities, which carry out these types of control pursuant to the procedure established by the legislation of Ukraine.

Customs clearance of goods moving through the customs border of Ukraine is conducted only after these goods undergo the types of control regulated by the legislation in force of Ukraine and mentioned in part one of this article.

Article 28. Collaboration of the Customs Authorities with Executive Power Bodies and the National Bank of Ukraine

Customs authorities collaborate with executive power bodies with competency limited by this Code, laws of Ukraine.

The specially authorized central body of executive power on customs practice report to the Ministry of Finance of Ukraine on taking funds to the State Budget of Ukraine resulting from collection of taxes and fees levied by the customs authorities empowered thereto pursuant to legislation.

Customs authorities inform the National Bank of Ukraine and corresponding financial institutions of Ukraine on funds transferred by them to the State Budget of Ukraine.

The Constitution of Ukraine, this Code and other laws of Ukraine differentiate authorities and functional responsibility between the specially authorized central body of executive power on customs practice and other authorities of the executive power of Ukraine in collecting taxes, fees and other mandatory payments.

Article 29. The Relationship between Customs Authorities, Specialized Customs Institutions and Organizations with Local State Administrations and Local Self-Government Bodies.

Local state administrations and local self-government bodies support the activities of customs authorities, and specialized customs institutions and organizations, and collaborate with them within competency prescribed by the laws.

CHAPTER 4. INFORMATION AND CONSULTING ON CUSTOMS PRACTICE

Article 30. Information as to the Rules for Transporting Goods and Vehicles through the Customs Border of Ukraine

Customs authorities, as well as transport enterprises, which carry out international transportation, are required to inform interested persons about customs rules, norms and conditions for transporting goods and vehicles through the customs border of Ukraine.

Article 31. Information on Normative Legal Acts on Customs Practice

Customs authorities may provide free of charge, at the request of interested persons, information on normative legal acts on customs practice (the name of the act, its main provisions, information about its publication).

Brief information on the main principles of the Ukrainian customs-related legislation shall be placed for general survey in the sites of customs bodies' location.

Article 32 Provision of Texts of Normative Legal Acts and Consultations on Customs Practice

Customs authorities, specialized customs bodies and organizations may provide interested persons with consultations, on a pay basis also, on customs practice issues, as well as with the texts of published normative legal acts on such issues.

The procedure for providing texts of normative legal acts and consultation on the customs matters shall be determined by legislation of Ukraine and this Code. The types of consultations, including those on payment basis that may be provided by customs authorities, as well as the amounts to be paid shall be defined by the Cabinet of Ministers of Ukraine.

Article 33. Responsibility for Inaccurate Information

Officials of customs authorities, and specialized customs institutions and organizations shall bear responsibility for provision of inaccurate information as determined by law.

CHAPTER 5. INTERNATIONAL COOPERATION ON MATTERS OF CUSTOMS PRACTICE

Article 34. Ukraine's Participation in International Cooperation on Matters of Customs Practice

Ukraine participates in international cooperation on the matters of customs practice.

In customs practice Ukraine adheres to generally accepted (in international practice) systems of classification and coding of goods, customs regimes, customs statistics, and other generally accepted

international norms and standards on matters of customs practice. Ukraine also ensures the implementation of international agreements on matters of customs practice, to which it is a signatory.

Article 35. Principles of International Activities of the Specially Authorized Central Body of Executive Power in Customs Matters

The international activity of the specially authorized central body of executive power on customs practice is headed and coordinated by the President of Ukraine and the Cabinet of Ministers of Ukraine.

Negotiations and consultations, related to the drafting of inter-state, inter-governmental, and inter-departmental agreements on matters of customs practice, may be conducted by the specially authorized central body of executive power on customs practice as entrusted by the President of Ukraine, the Cabinet of Ministers of Ukraine within the competency determined in accordance with law.

Article 36. Relations of the Specially Authorized Central Body of Executive Power on Customs Practice with International Customs Organizations

The specially authorized central body of executive power on customs practice represents Ukraine in the World Customs Organization and other international customs organizations.

International collaboration in the area of customs practice is conducted by the specially authorized central body of executive power on customs practice in coordination with the Ministry of Foreign Affairs of Ukraine.

Article 37. International Collaboration in the Area of Customs Practice

In accordance with international agreements concluded in accordance with the procedure established by law, the customs authorities of Ukraine along with customs authorities of the neighboring countries may conduct the following:

1) creation of the joint crossing points at the customs border of Ukraine;

1. (exercise) joint control at crossing points at the customs border of Ukraine;
2. coordinated application of customs control procedures and customs clearance, mutual recognition of documents used by customs authorities in customs procedures;
3. conduct of joint activities aimed at prevention, identification and termination of contraband and violations of customs rules;
4. conduct of other joint one-time or permanent activities on matters, which in accordance with this Code and other legislative acts of Ukraine are within the competency of the customs authorities of Ukraine.

Article 38. Ensuring Operative Communication between the Customs Authorities of Ukraine and Customs Authorities of Foreign Neighbor Countries

With a view of resolving the urgent issues related to the entry of goods and vehicles, identification and termination of contraband and violations of customs rules, and ensuring the law and order at Ukraine's customs border crossing points, the chief executives of the regional customhouses and customhouses

and their deputies are permitted to hold working meetings with representatives of customs authorities of the foreign neighbor countries.

The head of the said customs authority or his deputy must inform the commander of the relevant Border Troops of Ukraine unit as to the time, circumstances and the goal of such meetings.

The procedure for conducting such meetings is determined in accordance with the Regulations approved by the Cabinet of Ministers of Ukraine unless otherwise stipulated by the international agreement of Ukraine concluded in accordance with the procedure determined by law.

Article 39. Collaboration of Customs Authorities of Ukraine with Customs and Other Authorities of Foreign States, as well as International Organizations

Collaboration of the customs authorities of Ukraine with customs and other competent authorities of foreign states, as well as international organizations on matters related to contraband and violations of customs rules, is implemented by the customs authorities of Ukraine in accordance with international agreements of Ukraine concluded in pursuance with the procedure set forth by law.

SECTION 2.

CUSTOMS CONTROL

CHAPTER 6. ORGNIZATION OF CUSTOMS CONTROL

Article 40. Implementation of Customs Control

All goods and vehicles crossing the customs border of Ukraine are subject to customs control.

Customs control includes the minimum number of customs procedures implemented by customs authorities, which are necessary to ensure the compliance with customs legislation of Ukraine. The number and the order of procedures is determined in accordance with this Code, other legislative acts of Ukraine, as well as international agreements to which Ukraine is a party.

Customs control of goods, vehicles of carriers in the crossing points through state border of Ukraine shall be carried out twenty-four hours a day in keeping with the standard technological schemes for crossing the state border of Ukraine by auto, water, railway and aircraft carriers, which are approved by the Cabinet of Ministers of Ukraine.

Article 41. Types of Customs Control

Customs control is implemented directly by customs officials in the following way:

- 1) checking documents and information required for such control;
- 2) customs survey (examination and re-examination of goods and vehicles, personal inspection of citizens);
- 3) recording goods and vehicles, which are crossing the customs border of Ukraine;
- 4) oral polling of citizens and company officials;
- 5) review of reporting and recording documents for goods crossing the customs border of Ukraine, and timeliness, reliability, completeness of calculation and payment of taxes and fees levied in accordance with laws during movement of goods through the customs border of Ukraine;

6) inspection of territories and sites of temporary warehouses, licensed customs warehouses, special customs zones, duty-free stores and other places, where goods and vehicles subject to customs control may be placed, or where activities subject to control by customs authorities are taking place;

7) in other ways determined by this Code and other laws of Ukraine on customs practice.

The procedure for customs control is determined by the Cabinet of Ministers of Ukraine in accordance with this Code.

Article 42. Differentiated Approach in Customs Control

Customs authorities themselves determine the types and extent of customs control which is deemed to be sufficient to ensure the compliance with Ukrainian customs legislation, as well as other normative legal acts of Ukraine and international agreements of Ukraine, compliance with which is controlled by the customs authorities.

Article 43. Duration of Customs Control

Goods and vehicles remain under customs control from its beginning till it is finished, as determined by the applied customs regime.

In case goods and vehicles are brought into Ukraine, customs control begins at the moment of crossing of the customs border of Ukraine.

In case goods and vehicles are brought beyond the customs territory of Ukraine, customs control begins at the moment when they are presented for customs clearance and are declared in the order established by this Code.

The goods and vehicles remain on the territory of customs control zone at a point of entry/exit of the customs border of Ukraine for a period of time determined by the technical scheme of letting the persons, goods and vehicles through the customs border.

Customs control concludes:

in case of entry into the customs territory of Ukraine - after the customs clearance of goods and vehicles moved through the customs border of Ukraine is fully accomplished;

in case of exit from the customs territory of Ukraine - after the customs clearance of goods and vehicles is accomplished, and they crossed the customs border of Ukraine, except the cases when such customs regime is applied, which requires a presence under customs control during all time of customs regime application.

Article 44. The Terms of Presentation of Goods and Vehicles Crossing the Customs Border to the Customs Authority

Goods, which are crossing the customs border of Ukraine, as well as their package and markings, means of transportation of these goods across the customs border, as well as documents for these goods and means of transportation, are presented for control by customs authorities in an unaltered condition at the border crossing points of Ukraine and in other places designated by the customs authorities for implementation of customs control and clearance, no later than three hours after arrival of such goods and means of transportation to the entry point or other place.

The term set out in the first part of this article may be prolonged in order and under the conditions determined by the Cabinet of Ministers of Ukraine.

Article 45. Documents and Information Required for Implementation of Customs Control

Persons transporting goods and vehicles across the customs border of Ukraine or who conduct activities, which are controlled, in accordance with this Code, by the customs authorities, are obliged to provide these authorities with documents and information required for customs control implementation.

The list of documents and information needed for customs control implementation and the order of submission thereof are determined by the Cabinet of Ministers of Ukraine in accordance with this Code. Other law enforcement bodies of Ukraine, financial institutions, tax agencies and other control bodies of Ukraine provide the customs authorities, at the latter's request, with available information required for customs control implementation.

Article 46. Access of Customs Officials to the Territories or Facilities of Enterprises for the Purposes of Implementing Customs Control

With a view of implementing customs control, within the competence allowed by this Code and other laws of Ukraine, the customs officials have the right to unimpeded access to the territory or facilities of any enterprise of any form of ownership and subordination, wherein the goods subject to customs control are located or may be located.

Article 47. Joint Customs Control on the Customs Border of Ukraine

On the basis of international treaties of Ukraine concluded in accordance with the procedure established by law, customs control may be conducted jointly with the customs authorities of neighboring states at the customs border of Ukraine.

CHAPTER 7. ZONES OF CUSTOMS CONTROL

Article 48. Location of Zones of Customs Control

With the aim of ensuring the implementation of customs control of goods and vehicles crossing the customs border of Ukraine, as well the conduct of activities related to identification, prevention and termination of contraband and violations of customs rules, zones of customs control are created at the customs border crossing points of Ukraine, within the border zone at the state border, in sea and river ports, airports, at railway stations, at sites where goods undergo customs clearance, as well as on the territories of enterprises, free customs zones, and at other places determined by customs authorities.

Article 49. Procedures for Establishing Zones of Customs Control

The Cabinet of Ministers of Ukraine determines the procedures for creation of zones of customs control, their bounds, regime of their functioning in compliance with this Code.

Zones of customs control located within the bounds of the state border crossing points are created in cooperation with the State Committee on Protection of the State Border of Ukraine.

Zones of customs control located within the bounds of the state border crossing points are created by the specially authorized central body of executive power on customs practice in co-ordination with the

specially authorized central body of executive power in state border protection matters and specially authorized central body of executive power in transport matters.

Article 50. Building of Constructions and Other Objects in Zones of Customs Control

In zones of customs control, created at the customs border crossing points of Ukraine, buildings and other objects of infrastructure belonging to other authorities empowered to conduct the types of control listed in Article 25 of this Code, are located with the permission of the specially authorized central body of executive power in customs matters in co-operation with the specially authorized central body of the executive power in state border protection matters, and specially authorized central body of executive power in transport matters. The procedure for issuance of such permits is determined by the Cabinet of Ministers of Ukraine.

Article 51. Regimes in the Zones of Customs Control. Ensuring Legality and Order in Zones of Customs Control

Regime in a zone of customs control is the set of norms determined by this Code and other legislative acts on customs practice, which includes prescriptions, prohibitions and limitations as to the terms of stay of goods, vehicles and citizens; conditions for location of buildings and constructions, as well as the conduct of economic activities in the zone of customs control.

Ensuring the safety of citizens, as well as the protection of goods, which are crossing the customs border of Ukraine, and compliance with the regime, legality and order in the zone of customs control are delegated to the relevant customs authorities.

Article 52. Economic Activity in the Zone of Customs Control, Movement of Citizens, Goods and Vehicles through the Zone of Customs Control

Economic activity within the zone of customs control, and the movement of goods, vehicles, and citizens (including state power officials) which/who are not crossing the state border, through the zone of customs control and within the bounds of the said zone are allowed only by permission of the head or deputy head of the relevant customs authority and upon approval of the Border Troops of Ukraine and under the supervision of official persons of this authority, with the exception of cases foreseen by the laws of Ukraine.

CHAPTER 8. IMPLEMENTATION OF CUSTOMS CONTROL

Article 52. Rights of Customs Authorities in Implementing Customs Control

Customs authorities acting within the bounds of their authority according to this Code have the right to use force with regard to violators of the customs control regime.

Customs authorities have the right to use force to stop and turn back into the zones of customs control the vehicles or citizens who have entered into the customs territory of Ukraine from the zones of customs control without permission, as well as sea and river boats, which have exited zones of customs control without permission of customs authorities and left the customs territory of Ukraine, and are not in the territorial waters of other states.

The list of types of force that may be applied, as well as the order of their application, is determined by this Code and other laws of Ukraine.

Article 54. Submission of Documents and Information Required for the Implementation of Customs Control

Documents required for the implementation of customs control are submitted to the customs authorities:

- 1) upon crossing by the goods and vehicles of the customs border of Ukraine;
- 2) upon declaration of goods and vehicles;
- 3) upon notification of the customs authorities of the intent to move goods and vehicles across the customs border of Ukraine;
- 4) upon implementation of other supervisory functions by the customs authorities in accordance with this Code.

Article 55. Examination and Re-examination of Goods and Vehicles

Customs authorities, with the aim of checking the legality of crossing of the customs border of Ukraine by goods, vehicles, have the right to inspect these goods and vehicles.

Re-examination of such goods and vehicles may take place by decision of the head of the customs authority or his deputy, if there are grounds to believe that the goods and vehicles in question are being moved across the customs border of Ukraine in violation of this Code and other laws of Ukraine on customs practice.

Examination and re-examination of goods and vehicles may take place only in the presence of the person, who is moving them across the customs border, or is storing them under customs control.

Article 56. Examination and Re-Examination of Hand Baggage and Luggage

If there are grounds to believe that the hand baggage or luggage of a citizen transported across the customs border of Ukraine, or transiting it, comprises goods, which are subject to record and control by the state authorities, as defined in Article 27 of this Code, goods, which are subject to customs duties during the customs clearance,, or goods, the movement of which through the customs border of Ukraine is restricted or forbidden, the customs authorities have the right to examine and where necessary - re-examine the hand baggage and luggage, including its unpacking.

Examination and re-examination of hand baggage and luggage of a citizen are conducted in the presence of this citizen or his authorized representative.

Examination and re-examination of hand baggage and luggage may be conducted in the absence of a citizen or his authorized representative:

- 1) if there are grounds to believe that unaccompanied luggage contains goods, which present a danger to the life and health of persons, animals and plants, as well as to the environment;
- 2) if the citizen or his authorized representative have not appeared to claim the unaccompanied luggage within one month of its arrival;
- 3) if goods are sent in international postal consignments or international express-mail;

4) in cases where hand baggage or luggage are left on the territory of Ukraine in defiance of a commitment to transit them through the territory of Ukraine.

Examination and re-examination of hand baggage and luggage in the absence of a citizen or his authorized representative take place in the presence of representatives of the carrying (transmitting) or storing enterprise.

A report is compiled on each examination or re-examination in cases mentioned in clauses 1 and 2 of part four of this article. The specially authorized central body of executive power on customs practice determines the form for this report.

Article 57. Personal Inspection

An inspection of the person may take place as an extraordinary measure, provided there is a written permission of the head of the customs authority or his deputy, if there are sufficient grounds to believe that a citizen who is crossing the customs border of Ukraine or is in the zone of customs control or in a transit zone of an international airport, is concealing contraband goods or goods, which directly violate the customs rules or whose importation, exportation or transit through Ukraine is forbidden.

An inspection of the person at a customs post may be conducted, provided there is a written decision of the head of the post or his deputy, with a mandatory notification within 24 hours of the head of the customs authority as to the basis for and the results of such an inspection.

Prior to the beginning of an inspection, the customs official must present to the citizen a written decision of the head of the customs authority, head of the customs post or his deputy, and furthermore the official must inform the citizen of his rights during such inspection and propose that the citizen show the concealed goods voluntarily.

Personal inspection takes place in the isolated premises, which meets sanitary and hygienic standards. It is conducted by a customs official of the same sex as the inspected citizen, in the presence of not less than two witnesses of the same sex. Persons, who are not interested in the results of the inspection, are invited to be witnesses. Relatives of the inspected person may not be witnesses, nor may the customs officials. Access to the premises where the inspection is taking place by citizens not participating in it, as well as the opportunity to observe the inspection by such citizens are forbidden. Only a medical worker may conduct any inspection of the organs of the inspected citizen.

During the personal inspection a protocol is compiled in accordance with the form established by the specially authorized central body of executive power on customs practice.

The protocol is signed by the customs official, who conducted the inspection, the citizen who was inspected, the witnesses who were present at the inspection, and in cases where a medical worker participated in the inspection – by such worker as well. The citizen, who has been inspected, has the right to draw up a statement within the protocol.

A copy of the protocol is given to the citizen.

The following persons shall not be personally inspected: President of Ukraine, Chairman (Speaker) of the Verkhovna Rada of Ukraine, People's Deputies of Ukraine, Prime-minister of Ukraine, First Vice-Prime

Minister of Ukraine, Chairman and judges of the Supreme Court of Ukraine, Chairman and judges of the Constitutional Court of Ukraine, Minister of Foreign Affairs of Ukraine, Prosecutor General of Ukraine and members of their families accompanying them.

Article 58. Record of Goods and Vehicles Moving through the Customs Border of Ukraine

Record of the goods and vehicles moving through the customs border of Ukraine is the registration of the given goods and vehicles by customs authorities with the goal of implementing customs control.

The record of goods crossing the customs border of Ukraine via pipelines and power lines is carried out by means of the appropriate instruments.

The specially authorized central body of executive power on customs practice sets the forms of documents used for the record of goods and vehicles crossing the customs border of Ukraine.

Article 59. Verbal Questioning of a Citizen or Enterprise Officials

With the aim to implement customs control, customs officials may verbally question people and enterprise officials.

Verbal questioning of the citizens and enterprises' officials is the receiving by customs authorities of information important for customs control from persons having such information.

During the verbal questioning, a protocol is prepared. Its form is determined by the specially authorized central body of executive power on customs practice.

Article 60. Review of the Reporting and Recording System for Goods Crossing the Customs Border of Ukraine

Review of the reporting and recording system for goods crossing the customs border of Ukraine is the activity conducted by customs officials at enterprises, whose activity is the subject of customs control, aimed at determining the degree of compliance of documentation on the said goods and vehicles with requirements set out in this Code and in other laws of Ukraine.

Article 61. Examination of the Territories and Premises of Temporary Warehouses, Licensed Customs Warehouses, Special Customs Zones, Duty-Free Shops and Other Places of Location (or Possible Location) of Goods and Vehicles Subject to Customs Control, or where Activities Controlled by the Customs Authorities are Carried out

Examination of the territories and premises of temporary warehouses, licensed customs warehouses, special customs zones, duty-free shops and other places of location (or possible location) of goods and vehicles subject to customs controls, or where activities controlled by the customs authorities are carried out, are conducted with the aim of:

- a) determining the lawfulness of importation into the customs territory of Ukraine of goods and vehicles, observance of procedure for their importation, as well as full and proper payment of taxes and fees;
- b) determining whether the actual quantities of imported goods and vehicles match the quantities declared in customs declaration;

c) ensuring the compliance of activities controlled by the customs authorities with provisions of this Code and other laws of Ukraine.

The results of examination of the territories and premises should be duly set out in a report, whose form is determined by the specially authorized central body of executive power on customs practice. A copy of this report is handed to the owner of the temporary warehouse, licensed customs warehouse, duty-free shop or to the director or deputy director of the governing body of a special customs zone.

Article 62. Use of Technical and Special Instruments for Implementation of Customs Control

Technical and special instruments not harmful to people's life and health, animals and plants and those, which do not cause harm to goods and vehicles, may be utilized in implementing customs control according to the procedure established by legislation of Ukraine.

Article 63. Operations with Goods and Vehicles which were not Cleared through the Customs

With the permission of the customs authorities the goods which were not cleared through the customs yet, may be loaded, unloaded, and re-loaded; unpacked, packed and re-packed, the damaged packaging may be removed; identification marks and signs on these goods or their packages may be changed; and vehicles may be changed. The said operations are conducted at the expense of persons transporting these goods and vehicles across the customs border of Ukraine or for the account of their authorized representatives.

Customs authorities on their own initiative or upon initiative of the law enforcement bodies may require from persons, who move the goods through the customs territory of Ukraine, to conduct the actions mentioned in the first part of this article. In such cases all costs incurred in the result of such actions are reimbursed by an authority required it. In cases where as a result of such operations violations of the Ukrainian legislation were detected, either owners of such goods or vehicles or their authorized persons shall reimburse those costs.

The use of goods and vehicles, which were not cleared through the customs, is prohibited, except for cases defined in this Code and other laws of Ukraine.

Article 64. Identification of Goods, Vehicles, Premises and Other Places during the Customs Control Implementation

Goods under customs control, vehicles and premises where such goods are held or may be held, or where the activity controlled by the customs authorities is carried out, as well as meters for energy resources, electricity, heat and other forms of energy may be identified by the customs authorities.

The following customs equipment is applied in the process of identification: locking and sealing devices of a single use, seals, stamps, holographic marks, digital, letter or other markings, identification signs, taking of samples, compilation of an inventory of goods and vehicles, drawings, models, photographs, illustrations, use of shipping documentation etc.

The means of identification may be altered or destroyed only by the customs authorities or other authorities acting with the customs authorities' permission, with the exception of cases where there is a threat of destruction, irreversible loss or substantial damage to goods and vehicles. In such cases the

customs authorities are immediately notified about the changes, removal or destruction of identification marks. The evidence of the existing threat is the submitted documentary evidence.

Article 65. Involvement of Specialists and Experts in the Process of Customs Control Implementation

Where necessary, the specialists and experts may be involved in the implementation of customs control. The head of a customs authority or his deputy summons specialists and experts upon the agreement of a head an enterprises, office or organization at which the given specialist or expert is employed.

The specialist or expert participating in the implementation of customs control has the right to reimbursement of any expenses emanating from his summons. The specialist or expert retains the average wage paid at his place of employment for the time spent on the summons.

Compensation of specialists or experts, including their travel expenses, per diems for the time spent in a business trip in connection with their participation in customs control, as well as compensation for work performed by the specialists or experts in implementing customs control, is paid out from the state budget of Ukraine in accordance with the procedures established by the Cabinet of Ministers of Ukraine.

CHAPTER 9. SPECIAL PROCEDURES OF CUSTOMS CONTROL

Article 66. Exemption from Certain Types of Customs Control

Exemption from certain types of customs controls is determined by this Code, other laws of Ukraine, as well as international agreements concluded in accordance with the procedure established by law.

Non-application of customs control does not mean an exemption of someone from complying with the order of movement of goods and vehicles across the customs border of Ukraine.

Article 67. Exemption from Customs Survey

The hand baggage and luggage of the President of Ukraine, the Speaker of the Verkhovna Rada of Ukraine, people's deputies, the Prime Minister of Ukraine, the Vice-Prime-Ministers of Ukraine, Chairman and judges of the Supreme Court of Ukraine, Chairman and judges of the Constitutional Court of Ukraine, the Minister of Foreign Affairs, Prosecutor General of Ukraine and members of their families accompanying them, are exempt from customs inspection.

Article 68. Simplified Customs Control

With the permission of the specially authorized central body of executive power on customs practice, the regional customhouses and customhouses may apply simplified customs control.

The simplified customs control is applied during the movement through the customs border of Ukraine of goods not subject to mandatory declaration and taxation and which do not belong to the categories of goods prohibited or restricted for the movement through the customs border of Ukraine.

The simplified customs control is applied by the customs authorities equipped with zones (corridors) for the simplified customs control.

Citizens walking through the zones (corridors) of simplified customs control are exempt from filing a customs declaration.

Exemption from filing a customs declaration does mean an exemption from compliance with the order of movement of goods through the customs border of Ukraine.

Article 69. Customs Control Following the Completion of Customs Clearance of Goods and Vehicles

Regardless of the completion of the customs control procedures, clearance and release of goods and vehicles, the customs control over them may continue if there are certain grounds to suspect, that there is a violation of legislation of Ukraine or an international treaty of Ukraine adherence to which was recognized as mandatory by the Verkhovna Rada of Ukraine, and is implemented by the customs authorities according to law.

Such control is conducted on the basis of the written directive of a head of a customs body or his deputy.

SECTION III.

CUSTOMS CLEARANCE

CHAPTER 10. GENERAL PROVISIONS

Article 70. The Purposes of Customs Clearance

Customs clearance is conducted by customs officials with the purpose of confirming information received during the customs control of goods and vehicles crossing the customs border of Ukraine, and with the goal of procedural implementing the results of such control, as well as for statistical purposes of tracking the goods and vehicles brought in the customs territory of Ukraine, brought outside its bounds, and transit through its territory. .

Customs clearance operations, the procedure for their implementation, as well as forms for customs declarations and other documents used during the customs clearance of goods and vehicles, as well as the procedure for filling in these documents are determined by the Cabinet of Ministers of Ukraine.

Article 71. Place and Time of Customs Clearance Implementation

Customs clearance is conducted in places of location of the appropriate customs authorities' subdivisions during the time set by the customs authorities in agreement with the bodies authorized to conduct the types of control listed in Article 27 of this Code.

In accordance with the international agreements, concluded in accordance with the procedure established by law, customs clearance at the customs border crossing points of Ukraine may take place around the clock.

Customs clearance of goods and vehicles moved through the customs border of Ukraine by residents (except citizens), with the exception of cases when goods and vehicles are transiting the territory of Ukraine, is implemented by the customs authorities in whose area of activities such residents are located. In cases envisaged by the specially authorized central body of executive power on customs practice, customs clearance by another customs authority may take place upon a written agreement between the two customs bodies and the customs body in whose area of activities the resident is located.

The place for customs clearance of goods and vehicles, which are moved through the customs border of Ukraine by non-residents (except citizens), is determined by the Cabinet of Ministers of Ukraine.

Customs clearance of goods and vehicles transiting the customs border of Ukraine are cleared by the customs body where these goods and vehicles actually entered the customs territory of Ukraine.

Goods, which at the moment of bringing into the customs territory of Ukraine were cleared to the customs warehouse, may be later re-cleared to transit by a customs body where the customs licensed warehouse is situated, on which the mentioned goods are stored.

The specially authorized central body of executive power on customs practice may define the territories with buildings, constructions, engineering and technical instruments and communications required for the implementation of customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine - freight customs constructions, autoports, autoterminals. A freight customs complex, autoports, autoterminals may be a part of the customs system of Ukraine as a specialized customs organization or may be owned by a resident legal entity, registered as a subject of entrepreneurial activity. The freight customs complexes, autoports, autoterminals may be opened by the subjects of entrepreneurial activity with the permission of the specially authorized central body of executive power on customs practice. Requirements to a freight customs complex, autoports, autoterminals are determined by the Cabinet of Ministers of Ukraine.

Customs clearance of goods and vehicles, which are exported beyond the bounds of the customs territory of Ukraine by the citizens may be implemented at any customs authority throughout the customs territory of Ukraine.

Goods (except those, which are transported in an unaccompanied luggage, as well as automobiles), imported into the customs territory of Ukraine by citizens, may be cleared through the customs at the customs border crossing points of Ukraine.

Goods imported into the customs territory of Ukraine in an unaccompanied luggage are cleared through the customs authorities at the place of residence or temporary stay of the said citizens.

The specially authorized central body of executive power on customs practice determines the procedure for the customs clearance of automobiles imported into the customs territory of Ukraine by citizens.

Where goods and vehicles undergo customs clearance beyond the location of customs authorities or out of working time, the interested persons pay for that pursuant to the procedure and in amounts established by the Cabinet of Ministers of Ukraine. The rate of such payment may not exceed actual costs of the customs authorities for conducting such actions.

In accordance with decisions of the specially authorized central body of executive power on customs practice, customs clearance of certain types of goods may be implemented in the customs authorities specially created for this purpose.

Article 72. Beginning of Customs Clearance

Customs clearance begins after submission of a customs declaration, documents required for customs clearance, and all necessary information on the goods and vehicles subject to customs clearance.

By placing the appropriate marking on the customs declaration, the customs authorities certify that goods, vehicles and accompanying documents are accepted for the customs control and customs clearance.

Article 73. Presence of Declarants during the Customs Clearance

Declarants may be present during the customs clearance of goods and vehicles presented by them for the clearance.

In situations where measures described in Articles 55 and 56 of this Code are applied, as well upon the demand of the customs authority, the presence of the declarants during the customs clearance is mandatory.

Article 74. Customs Clearance of Military Vehicles and Military Hardware

Military hardware, equipped completely by a military unit, as well as military airplanes, warships, and support ships of the Naval Forces of Ukraine, when they cross the customs border of Ukraine are subject to the customs clearance. The Cabinet of Ministers of Ukraine determines the procedure for such clearance.

The customs clearance of military hardware, warships (vessels), warplanes and troop carriers of foreign countries is implemented with the participation of the representatives of the central body of executive power on defense.

Article 75. Drawing of Probes and Samples of Goods

With the goal of implementing the customs controls and customs clearance of goods, the customs authority may, with a written motivated authorization from the appropriate official of the said authority, take the probes and samples of these goods for testing (analysis, expertise). The testing (analysis, expertise) is conducted at the expense of the State Budget of Ukraine.

Declarants and the relevant state monitoring bodies, with the permission of customs authorities, may take the probes and samples of goods under customs control.

Probes and samples are taken in the minimum quantity sufficient for the testing (analysis, expertise), according to norms established by the specially authorized central body of executive power on customs practice.

A protocol on the drawing of probes and samples of goods under customs control is prepared in a form, determined by the specially authorized central body of executive power on customs practice.

Declarants have the right to be present during the drawing of probes and samples by officials of the customs authority and other state monitoring bodies. The drawing of probes and samples of goods under customs control by other state monitoring bodies or the declarant is conducted in the presence of customs officials. The declarants are obligated to assist customs officials in drawing probes and samples. Loading and other necessary operations shall be provided at the declarant's expense also.

A separate customs declaration for the goods' probes and samples is not filed, provided that information on them will be included into the customs declaration submitted for all goods crossing the customs border of Ukraine.

Declarants have the right to be familiarized with the results of the testing (analysis, expertise) of probes and samples of goods and get copies of testing (analysis, expertise).

The results of testing (analysis) undertaken by other state authorities or declarants must be presented to the customs authorities keeping the goods under customs control. Copies of the results of such testing (analysis, expertise) shall be submitted to the customs authorities also.

Customs authorities do not reimburse expenses incurred by the declarants as a result of drawing probes and samples of goods under customs control. Expenses for testing (analysis, expertise) of probes and samples of goods incurred by the customs authorities and customs laboratories are not reimbursed by the declarant, except the cases when testing (analysis, expertise) is undertaken at the declarant's initiative. The procedure for drawing probes and samples of goods, the terms of testing (analysis, expertise), and disposition of samples are determined by the Cabinet of Ministers of Ukraine.

Article 76. Submission of Reports Prepared by the Enterprises to Customs Authorities

Enterprises transporting goods across the customs border of Ukraine prepare, in the presence of customs officials, a report about non-compliance of goods with the information contained in documents required for customs control; about damaging of goods; and about damaging of packaging or marking thereof. The said reports are submitted to the relevant customs authorities.

The form of the report is determined by the specially authorized central body of executive power on customs practice.

Article 77. The Language of Documents Submitted for the Customs Control and Customs Clearance Implementation

Documents required for the implementation of customs control and customs clearance of goods and vehicles crossing the customs border of Ukraine in the course of foreign economic transactions, are to be submitted to the customs authority in the Ukrainian language or in the official language of the customs unions to which Ukraine is a party or in other foreign language which is spread world-wide. If the originals of such documents are written in other language than noted above, the declarant must provide their translation into the Ukrainian language at his own expense.

Article 78. Duration of Customs Clearance

Customs clearance may last, as a rule, no longer than 24 hours from the date of presentation of goods and vehicles subject to customs clearance, and following the submission of a customs declaration and all required documents and information.

Customs clearance is considered to be completed after the customs authorities have conducted procedures described by this Code with regard to the relevant customs regime.

Article 79. Simplified Procedure for Customs Clearance of Certain Types of Goods

Goods crossing the customs border of Ukraine required for the amelioration of the consequences of natural disasters, accidents, catastrophes, epidemics; live animals, organ and other anatomic human materials necessary for transplantation purpose; short life products or goods which require special storage conditions; radioactive materials, photo, audio or video materials for the mass media; goods with the status of technical or humanitarian assistance as well as goods under TIR procedure - all undergo priority customs clearance in a simplified order.

The Cabinet of Ministers of Ukraine determines the procedure for implementation of the simplified customs clearance.

Article 80. Obligation of Customs Authorities to Explain the Requirements of Customs Clearance

If customs authorities refuse to clear and let the goods or vehicles through the customs border of Ukraine, the customs authorities are obligated to provide interested parties with a written notice and explanation of the reasons for refusal, including a description of customs requirements necessary to clear the goods through the customs and to transport them through the customs border of Ukraine.

CHAPTER 11. DECLARATION

Article 81. Declaration Procedure

The process of declaring takes place by submitting (in writing, orally, or by action) exact information as to goods and vehicles, the goal in their crossing the customs border of Ukraine, as well as information required for the implementation of customs control and completion of customs clearance.

The conditions and order of use of declaration forms, the list of information required for the implementation of customs controls and completion of customs clearance is determined by the Cabinet of Ministers of Ukraine, and the form of customs documents and their order of filling in are determined by the Specially authorized central body of executive power on customs practice.

Lists of goods subject to mandatory declaration are determined by the Cabinet of Ministers of Ukraine.

Article 82. Temporary and Incomplete Declarations

If the declarant, for serious reasons, the list of which is determined by the Specially authorized central body of executive power on customs practice, cannot declare all goods and vehicles imported into the customs territory of Ukraine at the time that they are crossing the customs border of Ukraine (except for goods transited through the territory of Ukraine), such goods may be released in free circulation pursuant to the simplified procedure following the submission to the customs authorities of a temporary or incomplete declaration with the declarant obligating himself to submit a standard customs declaration no later than 30 days following the release for free circulation of the goods at issue.

Customs authorities make a decision as to the release for free circulation of goods with completion of customs clearance at a later date based on the circumstances under which the said goods crossed the customs border of Ukraine, the character of the enterprise, body or organization, and on condition of full payment of all required taxes and fees.

Article 83. Periodic Customs Declaration

Where goods regularly cross the customs border of Ukraine by a single entity (person) and on identical conditions and grounds, the customs authorities may permit such an entity to submit a periodic customs declaration, which describes the movement of goods for a period of time coordinated with the customs authorities.

The procedure and conditions of submitting a periodic customs declaration are determined by the Cabinet of Ministers of Ukraine.

Article 84. Place of Declaring

Goods and vehicles, which are moving across the customs border of Ukraine, shall be declared at the customs authority in charge of customs clearance of these goods and vehicles.

Transport means for transferring goods are declared simultaneously with these goods, except the cases envisaged by part three of this article.

Sea, river and air transport shall be declared at the customs authority in a port or airport of destination on the customs territory of Ukraine, or in a port or the airport of departure from the customs territory of Ukraine.

Transport means transferring the passengers and empty means of transport shall be declared at the customs border crossing point of Ukraine or at the customs authority where the owner of the vehicle is established.

Article 85. Terms of Declaring

The customs declaration is submitted to the customs authority, which is in charge of customs clearance, during 10 days following the delivery of goods and vehicles into the customs authority of destination.

Goods moved through the customs border of Ukraine by the citizens, are declared at the customs authority simultaneously with presentation of these goods.

In case of entrance of the empty means of transport and transport means, which are transferring the passengers, into the customs territory of Ukraine, they are declared at the customs authority not later than 3 hours from the moment of arrival into the point of entry thereof through the customs border of Ukraine; in case of their exiting from the customs territory of Ukraine – not later than 3 hours before crossing the customs border of Ukraine.

The above-mentioned terms may be prolonged according to conditions determined by the Cabinet of Ministers of Ukraine.

Article 86. Acceptance of a Customs Declaration

The customs declaration is accepted and registered by the customs authority in an order determined by the specially authorized central body of executive power on customs practice.

The filing of a customs declaration to the customs authority shall be accompanied by submission of commercial accompanying and other documents determined by the Specially authorized central body of executive power on customs practice.

Customs declaration is accepted by the customs authority, if it is determined that it comprises all necessary information and all necessary documents are attached thereto. The date and the time of acceptance of the customs declaration is recorded by the customs officer, who accepted it and marked the customs declaration form, as well as certified it by an appropriate record in the customs authority documents.

From the moment the customs declaration is accepted, it becomes a document, certifying the facts of legal significance.

The customs authority does not have a right to reject in acceptance of a customs declaration, if a declarant fulfilled all conditions determined by this Code.

There should be reasonable grounds for reject in acceptance of a customs declaration, and reasons should be informed to the declarant in writing.

Article 87. Declarants

The declarants may be enterprises or citizens, or their authorized customs brokers (intermediaries), who possess the goods and vehicles, which are crossing the customs border of Ukraine.

Also the declarants of goods and vehicles belonging to the citizens may be the individuals authorized (by the owners of these goods and vehicles) for declaring by the notarized powers of attorney.

Article 88. Obligations of a Declarant

A declarant performs all duties, and is fully liable, as stipulated by this Code, notwithstanding whether he is the owner of the goods and vehicles transported through the customs border of Ukraine, or a customs broker or other authorized person.

The declarant is obliged:

- to declare goods and vehicles according to the procedure established by this Code;
- to present, at the request of customs authority, goods and vehicles for customs control and customs clearance;
- to submit documents and additional information, necessary for the fulfillment of customs procedures, to the customs authority;
- to pay taxes and fees.

Article 89. Preliminary Customs Declaration

Prior to the transportation of goods into the customs territory of Ukraine, the declarant is submitting a preliminary declaration to the customs authority.

The procedure for submitting a preliminary declaration, its form and a list of requirements to the information comprised therein, are determined by the specially authorized central body of executive power on customs practice.

Article 90. Change, Amendment or Recall of the Customs Declaration

Upon the permission of the customs authority, information contained in the customs declaration may be changed or amended, and the submitted customs declaration – recalled.

Changes, amendments or recall may be done only before the moment of acceptance of the customs declaration by the customs authority for customs clearance.

Changing, amending and recalling of the customs declaration after its acceptance by the customs authority for customs clearance are not allowed. Introduction of amendments or changes, significant for the application of customs control procedures to goods and vehicles or influencing the conditions of taxation of goods, or application of non-tariff measures, is conducted by way of submission to the customs authority of a new customs declaration, if this is not in contradiction with the provisions of this Code.

The customs officials are not allowed to fill in customs declarations change or amend information, contained in the customs declaration, except for inclusion of information, which is within the competence of customs authorities.

SECTION IV.
MOVEMENT AND ADMISSION OF GOODS AND VEHICLES
THROUGH THE CUSTOMS BORDER OF UKRAINE
CHAPTER 12. PRELIMINARY OPERATIONS

Article 91. Preliminary Operations

Preliminary operations are those acts, which take place prior to the beginning of customs clearance for goods and vehicles.

Preliminary operations aim to speed up the customs clearance of goods and vehicles, and the implementation of customs procedures envisaged by this Code.

The conditions and order of executing preliminary operations found in this Code do not depend on the country of origin of goods or the shipping country.

Article 92. Submission of Documents to the Customs Authorities at the Customs Border Entry Points of Ukraine

If customs clearance of goods and vehicles, in their full quantity in accordance with their particular customs regime, take place in a place other than the customs border entry point, the customs authority at the customs border entry point in Ukraine shall receive transport, commercial and other documents, which contain information on the said goods and vehicles, and this information shall be sufficient to decide whether to permit entry through the customs border of Ukraine.

Article 93. Notification of Customs Authorities as to One's Intent to Bring Goods into the Customs Territory of Ukraine and to Bring Goods from the Customs Territory of Ukraine

During the transportation of goods into the customs territory of Ukraine, the declarant notifies in advance the appropriate customs authority as to his intent to bring such goods in.

In the case of transportation of goods beyond the customs territory of Ukraine, the declarant notifies the appropriate customs authority as to his intent to bring such goods outside. The customs authority sets the time and place of delivery of the said goods to conduct customs control and customs clearance.

The order of notification of customs authorities as to one's intent to bring goods into the customs territory of Ukraine or to bring such goods from of the customs territory of Ukraine is determined by the Specially authorized central body of executive power on customs practice.

The provisions of this article are not applicable to the sea, river and air transport means, which cross the customs territory of Ukraine without stopping in a port or airport, located at the customs territory of Ukraine.

Article 94. Delivery of Goods and Documents to a Location Designated by the Customs Authorities

Following the submission of the notification described in Article 93 of this Code, the declarant is obliged to deliver the goods and documents thereto with no changes in their state to a location designated by the

customs authorities and to secure the goods and documents at this location until the arrival of customs officials.

The delivery of goods and documents should take place by the deadline set by the customs authorities, using a normal delivery regime, and proceeding from possibilities of available transport, an established route and other conditions of transportation.

Goods and vehicles that carry such goods are placed in zones of customs control following their arrival on site.

At the place of delivery goods and vehicles are presented and documents for them are submitted to the customs authorities. Application for presentation of goods and vehicles for customs control and submission of documents should be done within the possible shortest period of time after their arrival, and in case of arrival out of the working hours, set for a customs authority – within the shortest possible period of time after working time of that authority begins.

Changes in parking location for vehicles, unloading, reloading, unpacking, packing and repacking of goods, as well as changes to, removal, or damage of identification marks are subject exclusively to customs authorities' discretion.

All additional expenses incurred by the declarant as a result of actions or circumstances foreseen by this article, do not result in reimbursement by the customs authorities.

CHAPTER 13. MOVEMENT OF GOODS AND VEHICLES ACROSS THE CUSTOMS BORDER OF UKRAINE

Article 95. Customs Border Entry Points of Ukraine, where Goods and Vehicles May Cross

Movement of goods and vehicles through the customs border of Ukraine is accomplished at entry points at the customs border of Ukraine, which are determined by the Cabinet of Ministers of Ukraine in accordance with international agreements of Ukraine concluded according to the procedures established by law.

Movement of certain types of goods through the customs border of Ukraine may take place at entry points specially designated at the customs border of Ukraine. The list of such entry points is approved by the Cabinet of Ministers of Ukraine.

Article 96. Goods Prohibited for Movement through the Customs Border of Ukraine

Bringing goods into/outside Ukraine and transiting through its territory of certain goods may be prohibited by the laws of Ukraine.

The following goods may not be permitted to cross the customs border of Ukraine:

1. goods whose entry into Ukraine is prohibited;
2. goods whose exit from Ukraine is prohibited;
3. goods whose transit through the customs territory of Ukraine is prohibited.
4. goods, which have not completed customs clearance;
5. goods crossing the customs border of Ukraine in violation of the provisions of this Code and other laws of Ukraine.

Cultural values may not be moved across the customs border of Ukraine in international mail.

Decision of customs authorities as for prohibition or restriction on movement of certain goods through the customs border of Ukraine may be appealed in a court.

Article 97. Limitations on the Movement of Certain Goods across the Customs Border of Ukraine

The movement of particular types of goods across the customs border of Ukraine may be limited in cases determined by the legislation. Entry for such goods at the customs border of Ukraine takes place on the basis of permission of authorized state bodies, which conduct relevant control functions.

Lists of goods whose movement across Ukraine's custom border takes place on the basis of permission granted by state bodies, and the order of issuance of such permits are determined by the Cabinet of Ministers of Ukraine. State bodies authorized to issue such permits are determined by the Cabinet of Ministers of Ukraine.

The order of moving currency values through the customs territory of Ukraine is determined by the National Bank of Ukraine.

The procedure for implementing customs control, customs clearance and entry through the customs border of Ukraine for goods which are the subject of limitations, are determined by the Cabinet of Ministers of Ukraine.

Article 98. Authority of Customs Bodies in Regulating the Movement of Cultural Values across the Customs Border of Ukraine

The customs authorities of Ukraine control the movement of cultural values across the customs border of Ukraine in co-ordination with the specially authorized state body for control of movement of cultural values across the state border of Ukraine and specially authorized state body of executive power on the matters of archives and in the order established by law.

CHAPTER 14. TEMPORARY STORAGE

Article 99. Temporary Storage Warehouses

From the moment of presentation to customs authorities and until their release in accordance with the relevant customs regime, goods and vehicles are held in temporary storage under customs control. Such goods and vehicles may be stored in temporary storage warehouses until completion of customs clearance and with the permission of customs authorities. The customs regime for said goods and vehicles is chosen upon their transfer for temporary storage and may not be changed by the owner of the goods and vehicles or his authorized representative without the agreement of customs authorities until the expiration of the term of temporary storage.

With the goal of creating favorable conditions for and shortening the duration of customs control implementation and customs clearance, customs authorities may take decisions on the creation of temporary storage warehouses belonging to transport and expediting organizations, which move goods and vehicles through the customs border of Ukraine, or belonging to other organizations. Zones of customs control are created within the bounds of such warehouses.

Appropriately furnished warehouse facilities, reservoirs, and covered and open lots may be utilized as temporary storage warehouses for goods and vehicles. Temporary storage warehouses are designated by customs authorities in whose area of operations such warehouses operate, and in the order determined by the specially authorized central body of executive power on customs practice. Goods and vehicles in temporary storage under customs control may be stored at warehouses of customs authorities.

Article 100. Permission for Use of a Building, Reservoir, Lot as a Temporary Storage Warehouse

A building, reservoir or lot may be used as a temporary storage warehouse in accordance with a properly prepared permit issued by a relevant customs authority.

The order of review of applications for, and the granting of permits for use of a building, reservoir or lot as a temporary storage warehouse and the duration of said permit are determined by the Cabinet of Ministers of specially authorized on customs practice.

The specially authorized central body of executive power on customs practice keeps an inventory accounting of temporary storage warehouses and records permits for their creation, issued by customs authorities.

If the owner of a temporary storage warehouse is not fulfilling the obligations, additional requirements or limitations as laid out in Articles 104-106 of this Code, a permit for use of a building, reservoir or lot as a temporary storage warehouse may be revoked by the customs authority, which issued the permit.

The procedure of appealing such revocation by an owner of a temporary storage warehouse is determined by law.

Article 101. Types of Temporary Storage Warehouses

Temporary storage warehouses may be of an open or closed type.

Closed temporary storage warehouses are exclusively for storage of goods belonging to the warehouse owner.

All persons may use open temporary storage warehouses.

In order to obtain a permit for use of a building, reservoir, lot as an open temporary storage warehouse, an enterprise must possess a license to conduct customs broker activities or customs transporter activities.

Article 102. Relations between the Owner of a Temporary Storage Warehouse and Persons Placing Goods and Vehicles in Storage at Said Warehouses

The relationship between an owner of a temporary storage warehouse and persons placing goods and vehicles in storage at said warehouse are determined by agreement on storage.

The relationship between customs authorities that are owners of warehouses, in which goods and vehicles are stored temporarily under customs control, and persons placing goods in storage at warehouses, is regulated in accordance with this Code and civil legislation of Ukraine.

Article 103. Documents Required for Placing Goods And Vehicles at Temporary Storage Warehouses

To place goods and vehicles at temporary storage warehouses, the entity placing them must submit documents to customs authorities enabling identification of said goods and vehicles and prove legality of the possession of such goods and vehicles by a person intended to place them at the warehouse.

Article 104. Obligations of the Owner of a Temporary Storage Warehouse

The owner of a temporary storage warehouse is obligated:

- 1) to equip the warehouse and create appropriate conditions for customs control;
- 2) to make impossible the removal from the warehouse (beyond customs control) of any goods and vehicles being stored at said warehouse;
- 3) not to interfere with implementation of customs control;
- 4) to keep records and report to customs authorities on goods and vehicles being stored at the warehouse, according to the procedure determined by the Cabinet of Ministers of Ukraine or the body authorized by it;
- 5) to make it impossible for passers-by to access the warehouse where goods and vehicles are being stored;
- 6) to equip the warehouse with no fewer than two security (identification) instruments, one of which must be in customs authorities' possession;
- 7) to adhere to the conditions of the permit for use of a building, reservoir, lot as a temporary storage warehouse and the requirements of customs authorities, including ensuring access by customs officials to goods and vehicles being stored at a warehouse, at any time, upon demand; and providing customs authorities with facilities, equipment and means of communication for implementation of customs control and customs clearance.

Article 105. Additional Rights of Customs Authorities Regarding Temporary Storage Warehouses

Customs authorities may make mandatory requirements as to the construction, outfitting and location of temporary storage warehouses in accordance with instructions governing temporary storage warehouses, as determined by the specially authorized central body of executive power on customs practice.

A customs authority has the right to disallow placement of goods and vehicles at temporary storage warehouses, if the warehouse owner does not provide the necessary conditions for customs officials' activities on the territory of the warehouse related to implementation of customs control of said goods and vehicles.

Article 106. Limitations on Placement of Goods and Vehicles at Temporary Storage Warehouses

All types of goods and vehicles may be placed at temporary storage warehouses. Goods and vehicles, which may harm other goods, or that require special conditions for their storage, should be placed at specially adapted facilities at temporary storage warehouses.

Goods held exclusively by customs authorities in accordance with Article 166 of this Code are not subject to placement in temporary storage of enterprises.

The specially authorized central body of executive power on customs practice may determine the list of specific types of goods and vehicles to be placed in temporary storage under customs control exclusively at customs authorities' warehouses.

Article 107. Person Responsible for Securing Goods and Vehicles Placed at Temporary Storage Warehouses

The owner of a temporary storage warehouse bears responsibility before customs authorities for securing goods and vehicles placed at said temporary storage warehouse.

In case of release without permission of customs authorities or loss of goods and vehicles placed at a temporary storage warehouse, the owner of said temporary storage warehouse is liable in accordance with this Code.

Article 108. Duration of Temporary Storage of Goods and Vehicles

The duration of temporary storage of goods and vehicles by enterprises may not exceed three months. The Cabinet of Ministers of Ukraine may set shorter duration of storage for certain categories of goods and vehicles.

The duration of temporary storage of goods and vehicles set out in the first part of this article may be prolonged, but no more than for a month, upon application of the declarant to the customs authority overseeing the customs authority, which permitted temporary storage of said goods and vehicles. An application for prolongation of temporary storage of goods and vehicles is agreed with the owner of the warehouse and the relevant customs authorities.

Prior to expiration of the terms of temporary storage of goods and vehicles as defined in parts one, two and three of this Article, said goods must be:

- 1) declared by the owner or his authorized representative pursuant to the chosen customs regime;
- 2) or placed by the owner or his authorized representative for storage by the relevant customs authority.

Article 109. Operations with Goods at Temporary Storage Warehouses

Besides operations set down in Article 63 of this Code, goods and vehicles placed at temporary storage warehouses may, with the permission of customs authorities:

- 1) undergo inspection and measuring by the owner of the warehouse, or other person, who placed said goods and vehicles at said warehouse, or its representative;
- 2) be included in operations necessary for the preservation of said goods and vehicles in an unchanged state.

Samples of goods in storage at a warehouse may be taken with the permission of customs authorities.

SECTION V.

**CUSTOMS PROCEDURES FOR MOVEMENT OF GOODS ACROSS THE CUSTOMS BORDER OF
UKRAINE WITH DIFFERENT MEANS OF TRANSPORT**

CHAPTER 15. GENERAL PROVISIONS

Article 110. Means and Ways of Movement of Goods

Movement of goods across the customs borders of Ukraine is carried out with the means of aviation, water transport, vehicles, railway, pipelines and through power lines.

Depending on the presence of the carrier, consignor, consignee and also a contract for transportation of goods, the goods are moved in the form of:

1. freights;
2. accompanied luggage;
3. unaccompanied luggage;
4. hand baggage;
5. international postal consignment;
6. international express-mail.

Article 111. Customs Procedures at Transportation

Means of transport that move passengers or goods across the customs border of Ukraine are subject to customs control and customs clearance.

The customs procedures that are applied for customs control and customs clearance of means of transport that deliver goods or passengers across the customs borders of Ukraine are unified and they do not depend on the country of registration or on the country that owns the means of transport, on the country the means of transport go from and the country the means of transport go to, except for the instances envisaged by international treaties of Ukraine concluded pursuant to the procedure established by law, and relevant international acts that impose sanctions and restrictions on trade with certain countries.

Article 112. Interaction in Clearance of International Transportation of Goods

Customs control over the international transportation of goods is conducted by the customs authority together with other relevant supervisory services based on the harmonized procedures with definite terms and sequences of execution of immediate responsibilities by separate services.

Timetables for the movement of transport means across the customs border of Ukraine is stipulated by the central body of executive power in transport matters of Ukraine upon agreement of the specially

authorized central body of executive power on customs practice and the specially authorized central body of executive power on protection of the State Border of Ukraine.

The technological schemes mentioned in the first part of the present article are adopted by the senior officials of the Customs authorities upon agreement with the bodies of protection of state border of Ukraine and other relevant supervisory services.

Article 113. Assistance to the Customs Officials in Enforcement of Customs Procedures

With the aim to facilitate the conduct of the customs procedures at moving means of transportation across the customs border of Ukraine operators of waterborne transport, air transport, motor transport and railway transport are obliged to provide all necessary assistance to customs officials in conduct of their duty.

Article 114. Premises of the Customs Authority in Ports, International Airports and Cross Border Railway Stations

Administration of sea and river ports, international airports cross border railway stations are obliged to provide all necessary premises, equipment, means of communication and sets all conditions for conduct of customs procedures on a contract basis.

The list and requirements to the premises are stipulated by the specially authorized central body of executive power on customs practice and the central body of executive power in transport matters of Ukraine based on volumes and character of international deliveries.

Article 115. Customs Procedures Pertaining to Stocks and Consumption

Stocks and consumption mean the following:

- 1) stocks provided for consumption by passengers and crews of vessels, aircrafts, trains and other means of transportation, regardless of whether they are for sale or not;
- 2) stocks, including combustive-lubricating materials, necessary for operation of vessels, aircraft's, trains and other means of transportation including those procured abroad to mitigate consequences of a breakage or for conduct of necessary routine maintenance of the said means of transportation;
- 3) stocks provided for supply and equipment, combustive-lubricating materials, raw materials for industrial processing, food and other stocks taken outside the customs territory of Ukraine to ensure operation of Ukrainian vessels and vessels rented (chartered) by Ukrainian entities for fishing.

Stocks provided for consumption and carried by vessels, aircrafts, trains or other means of transportation across the customs border of Ukraine in the amounts set on the basis of rates of consumption with regard to length of the trip are subject to customs clearance on a non-license basis without declaration and payment of taxes and fees (except cases mentioned in this Code); if exceeding these norms - according to regular procedures under the declared regime.

Article 116. Passage of Special Equipment Imported/Exported Together with Vehicles

Special equipment used for loading, unloading, protection and storage of goods that moves together with vehicles across the customs border of Ukraine are subject to passage under the same conditions as the vehicle, provided they are used according to their application and enter or leave Ukraine together with the vehicle.

Article 117. Passage of Spare Parts and Equipment for Maintenance of Vehicles

Spare parts and equipment for maintenance of vehicles temporarily imported into the customs territory of Ukraine or temporarily exported from it may be imported (exported) under the condition of their back importation to or exportation from Ukraine without payment of taxes and fees. Customs authority that is responsible for passage of the spare parts and equipment may take guarantee measures envisaged in Article 211 of the present Code.

Substituted spare parts and equipment may not leave the customs territory of Ukraine (or be imported), and with a permit from the customs authority they may:

be submitted to the customs authority for clearance for free circulation on the customs territory of Ukraine (outside Ukraine);

be destroyed under supervision of the customs authority.

Article 118. Restrictions on Passage of Alcohol or Tobacco Products Carried on Board of Means of Transportation across the Customs Border of Ukraine

Means of international transportation are permitted to carry on board into or from the customs territory of Ukraine the amount of alcohol or tobacco for consumption by crew or passengers based on the rates of consumption stipulated by the Cabinet of Ministers of Ukraine.

Article 119. Temporary Permit for Passage of Vehicles to the Customs Territory of Ukraine

Vehicles used for moving passengers or goods across the customs border of Ukraine are permitted to temporarily enter the customs territory of Ukraine without payment of taxes and fees and without application of non-tariff regulation measures.

Vehicles, temporally imported into the customs territory of Ukraine, must leave Ukraine without introduction of any changes into their design (except for essential tear and wear, consumed fuel and lubricants and necessary maintenance).

Temporal importation of vehicles into the customs territory of Ukraine is permitted under the condition that they may not be used for domestic transportation on the customs territory of Ukraine.

Article 120. Goods Imported into the Customs Territory of Ukraine by Mistake

Goods may be considered imported into the customs territory of Ukraine by mistake, if it is not proved that the carrier or consignee did it out of premeditated misconduct or gross negligence.

Goods may not be considered imported into the customs territory of Ukraine by mistake if conditions or arrangements of their passage were changed after they crossed customs territory of Ukraine.

CHAPTER 16. CUSTOMS PROCEDURES FOR SEA AND RIVER TRANSPORTATION

Article 121. Locations for Conduct of Customs Procedures

Customs authorities conduct customs procedures at the customs control area located on territories of sea and river ports and also in the water areas of international ports.

Article 122. Customs Control Areas at Sea and River Ports

Customs control areas at sea and river ports are located on the sites allocated by the management of these ports, territories and water areas.

Procedures of establishment and functioning of the customs control areas at sea and river ports are stipulated by the Cabinet of Ministers of Ukraine.

Article 123. Timeframe for Customs Control

A vessel that conducts international transportation is considered to be under customs control all the time it stays in the port. During all the stay customs authority shall have the right to conduct single or repeated

customs checks, sealing of some of the premises or holds that contain goods that are not permitted for importation (exportation) or transit through the customs territory of Ukraine.

Article 124. Timeframe for Customs Clearance of Vessels That Conduct International Transportation

Depending on tonnage and usage of the vessel that conduct international transportation, the timeframe for their customs clearance is defined by the head of the customs authority in agreement with the head of the relevant body of border guard of Ukraine and other control bodies.

Customs clearance of vessels that conduct international transportation is done around-the-clock according to their arrivals.

Article 125. Location of Customs Control Objects at Waterborne Transportation

Sites of loading and unloading of the vessels that conduct international transportation, sites of departure and arrival of passengers of the vessels and sites of harboring for conduct of customs procedures are defined by the administration of the port with functional and technological activities taken into account, upon request of the customs authority agreed upon the body of state border protection of Ukraine.

Change in location for harboring of vessels is determined by the administration of the port provided that customs authorities and bodies of border guards of Ukraine are informed.

Article 126. Emergency Customs Control

If a vessel that conducts international transportation due to a wreck, natural calamity or some of the circumstances, that may be considered acts of God, is not able to reach one of the customs control areas located on the customs territory of Ukraine, unloading of goods is permitted in the locations that have no customs control areas. For these instances the captain of the vessel is obliged to take all measures to ensure preservation of the goods and their submission for control at the nearest customs control area.

Article 127. Customs Control over Loading/Unloading at Waterborne Transportation

Unloading and loading of vessels that conduct international transportation may be conducted with the permission of the customs authority and under its control according to freight documents required by the legislation of Ukraine. Final release of goods is conducted upon processing of customs declarations.

Article 128. Customs Control for the Foreign-Going Vessels That Enter the State Border of Ukraine for a Short Time

The foreign-going vessel that enters a Ukrainian international port to replenish stocks of water, fuel, food, conduct of emergency maintenance for the term of up to 48 hours is not subject to customs clearance, but stays under customs control until it departs.

The goods that are loaded into that vessel are subject to customs clearance according to general procedures.

Article 129. Customs Control of Coasting Vessels

Ukrainian coasting vessels under the state flag of Ukraine and coasting vessels under foreign flags provided they have a permit of the central authority of executive power in transportation matters that conduct coasting transportation between Ukrainian ports are subject to customs control during all the time they stay at ports. Customs clearance of these vessels is conducted on the basis of a written notice of the captain of the vessel stating that he does not enter foreign ports and does not harbor near foreign-going vessels or that the next voyage, following the present one, does not envisage entering foreign ports or contacts with foreign-going vessels.

Customs clearance of fish products, manufactured by Ukrainian vessels within border of Azov-Black Sea water basin, is conducted without customs cargo declaration being filled in and without payment of taxes and fees.

If a vessel, for some reason, entered port of other states or contacted foreign-going vessels, she is subject to the customs control according to regular procedures.

Article 130. Customs Clearance of Ukrainian Vessels Manufactured or Purchased Abroad or Sold Abroad

Customs clearance of a vessel purchased or manufactured by a resident out of the customs territory of Ukraine is conducted after the moment when a resident becomes the owner of such a vessel, and it is cleared as import upon the first entry to the one of the Ukrainian ports.

Customs clearance of vessel purchased by a non-resident on the customs territory of Ukraine is conducted in export regime, if it is being exported out of the customs territory of Ukraine, or as a temporary admission, in case such a vessel is used on the customs territory of Ukraine.

Article 131. Customs Permit for Departure of the Vessel That Conducts International Transportation

The administration of the port shall not permit the captain of the foreign-going vessel to leave the area of the port without an entry made into the relevant document by the customs authorities.

Customs permit for departure from the port is not required for a temporary departure of the vessel from the port that arises due to the natural disaster, to rescue people or in other force majeure circumstances.

Article 132. Customs Control over Goods Transferred by Foreign Warships

Goods that are transferred by foreign warships to or from the customs territory of Ukraine are subject to customs control and customs clearance.

CHAPTER 17. CUSTOMS PROCEDURES FOR AIRBORNE TRANSPORT

Article 133. International Airports

Transportation of goods across the customs border of Ukraine by air transport is conducted through international airports that have customs authorities.

Transportation of goods through other airports that have no customs authorities is permitted as exceptions on permission from the Cabinet of Ministers of Ukraine or for emergency landing of the aircraft.

Article 134. Documents for Control of the Aircraft

The commander of the aircraft is obliged to submit the following documents for customs control:

- 1) general declaration;
- 2) documents on postal deliveries, goods and documents that accompany goods;
- 3) other documents envisaged in the present Code, in other legislative regulations of Ukraine or in international treaties of Ukraine signed according to the procedure established by law.

A customs permit for unloading or loading goods from/on the aircraft is issued only after checking the submitted documents for compliance with the requirements of the present Code.

Article 135. Emergency Landing

The commander of the aircraft that makes an emergency landing outside of the international airports is obliged to take all measures necessary for preservation of goods subject for customs control and to notify the nearest international airport on the site of landing during 24 hours.

Having received this notification, the administrator of the international airport is obliged to provide transportation of customs officers to the site of landing or to take the passengers, the crew and the goods subject to customs control to the customs authorities.

Article 136. Passage of Goods Carried by Transit Passengers of Aircrafts

Goods carried by transit passengers of aircrafts (except for the goods prohibited for transit) are not subject to taxes and fees and are free to be moved within the customs control area of the international airport.

Article 137. Collaboration in Clearance of Air Cargoes

Customs control of air transportation is conducted by a customs authority of an international airport in collaboration with control and other services, taking part in clearance of the international aircrafts as well as their crews, cargoes, passengers and luggage.

Common technological schemes of clearance of international air-transportation and allocation of responsibilities for its conduct are determined by the heads of an air enterprise, customs authority and border guard body of Ukraine.

Common technological schemes prescribe the place, term and order of the clearance for each service involved.

Article 138. Preferential Regime of Customs Control of the Aircraft

Customs control and customs clearances of the aircrafts that carry official state delegations are conducted without customs checking.

The grounds for granting the preferential customs regime are the official notification of the Ministry of Foreign Affairs of Ukraine.

CHAPTER 18. CUSTOMS PROCEDURE FOR RAILWAY TRANSPORTATION

Article 139. Customs Procedures for Railway Rolling –Stock Crossing Customs Border of Ukraine at Crossing Points

Checking of documents, railway rolling-stock and other customs procedures envisaged in the present Code for railway transportation are conducted at the customs control areas at crossing points of the state border of Ukraine.

Loading, unloading, reloading and other works necessary for conduct of customs control and customs clearance of the goods are carried out at the expense of the railway enterprises.

Article 140. Conduct of Customs Control at Railway Transportation

Customs control at railway transportation is conducted according to the special technological schemes adopted by the administrators of railway stations, heads of the customs authorities and bodies of the border guards of Ukraine.

Article 141. Documents Necessary for Customs Control of Goods Carried by Railway Transportation

When goods, carried by railway transport, subject to customs control arrive authorized employees of the railway station are obliged to submit the following documents to the customs authority:

- 1) certificate of transfer (a list of luggage);
- 2) railway invoices;
- 3) other documents envisaged by the present Code, other laws of Ukraine and by the international treaties of Ukraine signed in accordance with the procedure established by law.

Article 142. Responsibility to Bring Goods to the Customs Check Point at Destination

The railway is responsible for the loss and improper bringing the goods subject to customs control to the customs checkpoints at destination.

Article 143. Location for Conduct of Customs Procedures in International Railway Transportation

Customs control of goods and means of transportation involved in international railway transportation is conducted at the customs control areas. Passengers of international trains may also pass customs control at other sites located along their route that are appointed by the specially authorized central body of the executive power on customs practice, the specially authorized central body of executive power on Border Protection of Ukraine and the central body of executive power in transport matters.

In order to keep timetables of the railway such control may be conducted at locations other than crossing points on the state border or at locations selected by the head of the customs authority in agreement with the administrator of the railway station and the head of the body of border guards of Ukraine.

In exceptional cases, list of which is determined by the specially authorized central body of executive power on customs practice, at the requirement of the customs authority some railway cars, locomotives, other elements of the train may be excluded from the train for conduct of customs procedures, if such conduct is impossible in the train.

Departure of means of railway transportation from the stations is conducted with permission of the customs authority and the body of border guards of Ukraine.

Article 144. Passage of Goods Carried at Dining Cars of International Trains

Food and non-alcoholic drinks, wines, liqueurs, cognacs and strong alcoholic drinks that pass the customs border of Ukraine in the dining cars of international trains are subject to mandatory customs declaration.

Food and non-alcoholic drinks that pass the customs border of Ukraine are exempt from taxes and fees under the following conditions:

- à) they are sold exclusively for immediate consumption in the train;
- â) their amount does not exceed the minimum quantity necessary to render services of the dining car along the entire route.

Alcohol drinks and tobacco products that cross the customs border of Ukraine in the dining cars are permitted to pass the customs border of Ukraine under conditions of payment of all required taxes and fees.

CHAPTER 19. CUSTOMS PROCEDURES AT MOTOR TRANSPORTATION

Article 145. Documents Necessary for Customs Control of Means of Motor Transport

Persons that conduct motor transportation of goods and passengers across the customs border of Ukraine are obliged to have respective documents, stipulated by this Code, laws of Ukraine and international agreements of Ukraine concluded in accordance with the procedure established by law.

Article 146. Obligations of Persons That Conduct Motor Transportation of Goods Subject to Customs Control

Persons that conduct motor transportation of goods subject to customs control are obliged:

- 1) to bring goods to the place of destination preserving customs obligations;

- 2) not to start loading, unloading or reloading of goods without a permission from the customs authority;
- 3) to submit all documents necessary for customs control and customs clearance to the customs authority;
- 4) in cases of necessity to carry out unloading, loading, packing and unpacking of goods for their submission to customs control at the expense of the operators.

Article 147. Procedures for the Customs Clearance of Vehicles Transporting the Goods across the Customs Border of Ukraine

Vehicle employed in delivery of goods across the customs border of Ukraine do not need a separate customs declaration, if the goods moved by the vehicle across the customs border of Ukraine are declared.

Information on the vehicle that delivers the goods is included into the customs declaration for its freight, TIR carnet (1975 Convention on TIR), invoices for the freight and other freight and accompanying documents stipulated by legislation.

CHAPTER 20. CUSTOMS PROCEDURES FOR THE PIPELINE AND POWER LINES

Article 148. Customs Control Procedures for Goods Transported by Pipelines and Power Lines

The Cabinet of Ministers of Ukraine shall determine the customs control areas for the purposes of customs control of goods transferred by the pipeline and power lines (including the transit through the territory of Ukraine).

The Cabinet of Ministers of Ukraine shall introduce the procedure and time limits for customs control purposes of the customs clearance of the goods transferred by the pipelines and power lines, taking into account the specific features of such transfer through the customs border of Ukraine.

Article 149. Documents for the Purposes of Customs Clearance of Goods Transferred by the Pipelines

For the purposes of customs clearance of goods transferred by the pipelines, the Declarant (declaring person) shall submit the following documents to the customs authority:

- 1) the agreement (contract) on foreign economic activity;
- 2) the act (acts) of acceptance of the goods;

- 3) the quality certificate;
- 4) the invoice;
- 5) the teletype route;
- 6) the permissions (licenses) of the corresponding government bodies;
- 7) other documents determined by this Code and other Ukrainian laws.

Article 150. Documents for the Customs Clearance of the Transfer of Electricity

For the purposes of customs clearance of the transfer of electricity the Declarant shall submit the following documents to the customs authority:

- 1) the agreement (contract) on foreign economic activity;
- 2) the supporting documentation of the corresponding enterprise regarding the amount of electricity transferred through the customs territory of Ukraine;
- 3) other documents determined by this Code and other Ukrainian laws.

CHAPTER 21. TRANSFER OF GOODS THROUGH THE CUSTOMS BORDER OF UKRAINE BY INTERNATIONAL MAIL AND EXPRESS-MAIL

Article 151. Transfer of International Mail through the Customs Border of Ukraine

The International mail shall be transferred through the customs territory of Ukraine (including transit through the territory of Ukraine) after completion of the customs control and the customs clearance of goods contained in such mail.

The postal enterprises of Ukraine must present (at their own expense) the international postal consignments transferred through the customs border of Ukraine to the customs authorities for customs clearance.

The central body of executive power on communication and informatization of Ukraine in agreement with the specially authorized central body of the executive power on customs practice shall identify and equip the points of international mail exchange for purposes of customs control and customs clearance of the goods transferred through the customs border of Ukraine as the international postal consignments.

The delivery of international postal consignments to the customs clearance points, unpacking and submitting for the survey, repackaging and storage shall be conducted by the postal enterprises of Ukraine at their own expense with the participation and under control of the customs authorities.

Article 152. Transfer of International Express-Mail through the Customs Border of Ukraine

The international express-mail is transferred through the customs territory of Ukraine (including transit through the territory of Ukraine) after completion of the customs control and the customs clearance of goods contained in such mail.

The express-carrier in agreement with the specially authorized central body of the executive power on customs practice shall identify and equip the points of international express-mail for purposes of customs control and customs clearance of the goods transferred through the customs border of Ukraine as the international postal consignments.

The delivery of international express-mail consignments to the customs clearance points, unpacking and submitting for the survey, repackaging and storage shall be conducted by the relevant express-carrier at own expense with the participation and under control of the customs authorities.

Article 153. Procedures and Conditions for Customs Control of Goods and Other Articles Transferred in the International Postal Consignments and Express-Mail

The Cabinet of Minister of Ukraine shall introduce the procedures and conditions of the customs control for goods transferred (sent) across the customs border of Ukraine in international postal consignments.

SECTION VI. DISPOSAL OF GOODS, WHICH ARE UNDER CUSTOMS CONTROL

CHAPTER 22. TRANSFER OF GOODS AND VEHICLES BETWEEN THE CUSTOMS AUTHORITIES. TRANSIT SHIPMENTS

Article 154. Rights and Duties of the Carrier

Carriers have a right not to accept goods for shipping between the customhouses if:

1. customs clearance and transport documents were executed in defiance of the procedure established by the customs legislation of Ukraine;
2. if customs instruments, applied to the vehicle and goods package, do not exclude the possibility of accessing goods without damaging those instruments.

Carrier is responsible for delivery of goods into the destination customs authority and shall submit all necessary documents to them as stipulated by legislation.

The transfer costs are paid in the order prescribed by the laws of Ukraine.

Article 155. Types of Transit Shipments

Transit shipment shall be carried out as transitional and internal customs transit.

Transitional customs transit – is the shipment of goods and vehicles under the customs control from one point located at the customs border of Ukraine (point of importation into the customs territory of Ukraine) to another point located at the customs border of Ukraine (point of exportation from the customs territory of Ukraine).

The internal customs transit – is the shipment of goods and vehicles under the customs control:

- 1) from one crossing point located at the customs border of Ukraine (point of importation into the customs territory of Ukraine) to another customs authority, located inside the customs territory of Ukraine;
- 2) from the customs authority located within the customs territory of Ukraine to the crossing point located at the customs border of Ukraine, i.e., point of exportation from the customs territory of Ukraine);
- 3) from the customs authority, located within the customs territory of Ukraine to another customs authority, located within the customs territory of Ukraine.

Article 156. Conditions for Transiting the Goods

The transit goods shall comply with the following:

- 1) shall stay unchanged (except natural losses) and shall not be used for other purposes than transit;
- 2) shall be delivered to the customs authority of destination in accordance with the time period established by the customs authority of dispatching.

During the transit of goods through the custom territory of Ukraine, in accordance and under the control of the customs authority, certain operations may be performed with such goods without changing the qualities and the shape of such goods (reloading, unloading, loading, repackaging).

Article 157. Itineraries for the Transit Shipments

The goods shall be transited through the customs territory of Ukraine via itineraries determined by the carriers on their own consideration of economic efficiency principles, if they are complying with the conditions of this Code.

The Cabinet of Ministers of Ukraine may introduce some limitations regarding the use of certain roads and transit itineraries within the customs territory of Ukraine, identify the roads or itineraries for certain kinds of goods and vehicles transited through the customs territory of Ukraine, identify the crossing points for importation/exportation of certain goods and so on.

Article 158. Duration of the Customs Transit

The Cabinet of Ministers of Ukraine sets forth the maximum time limits for the transitional customs transit, which depend on the kind of transportation.

The dispatching customs authority introduces the time period for the shipment of goods to the corresponding customs authority of destination in accordance with the existing norms for shipment of goods, taking into account the type of transportation, the itinerary, the distance to the final destination point and other shipment conditions. This time period shall not include the storage time at the warehouses in case of reloading into a transport facility of another kind and the time period, which is needed for other operations with goods allowed by the customs authorities.

Article 159. Measures Applied in Case of an Accident or in Case of Force Majeure

If the vehicle transiting goods was unable to arrive to the destination customs authority, because of the accident or Force Majeure – it is allowed to unload goods in another place.

In such case the carriers shall be obliged to do the following:

- 1) to take all measures needed for preserving the goods and preventing any use of such goods;
- 2) to urgently inform the nearest customs authority about such events and location of the vehicles and goods;
- 3) to deliver goods to the nearest customs authority or deliver customs officials to the location of such goods.

The customs authority shall not reimburse to the carrier the losses incurred during the implementation of measures, specified in this Article.

Article 160. Liability for Non-Compliance with the Established Procedure for the Transit Shipment of Goods

The carrier shall be liable, according to law, for non-compliance with the established procedure for the transit shipment of goods.

CHAPTER 23. MEASURES FOR PROVIDING GUARANTEE OF DELIVERING GOODS UNDER THE CUSTOMS CONTROL

Article 161. Measures for Providing Guarantee of Delivering

The following guarantees may be applied to delivery to the destination customs authority of goods and vehicles under customs control and transferred between the customs authorities:

- 1) the owner of goods and vehicles or an authorized person issues a guarantee to the customs authority;
- 2) the customs authority ensures security and escorts the goods;
- 3) carriage of goods by the customs carrier;
- 4) transportation of goods under conditions of the Customs Convention on TIR under TIR carnet 1975 (1975 Convention on TIR).

Article 162. Guarantees for Delivery of Goods to the Destination Customs Authority

Owner of the goods under customs control or the authorized person may give the guarantees to the customs authority regarding the obligatory delivery of such goods to the destination customs authority

The types, conditions and procedures for the application of guarantees are determined by law.

Article 163. Ensuring Security and Escorting the Goods by Customs Authorities

The customs authorities provide securing and escorting the goods during internal and transitional customs transit.

The specially authorized central body of executive power on customs practice shall establish the forms and methods for securing and escorting the goods to the destination customs authority.

The customs charges shall be paid for the securing and escorting the goods by the customs authority at the rate not exceeding the actual costs of the customs authority.

Article 164. Transportation of Goods by the Customs Carrier

Transportation of goods to the destination customs authority by the customs carrier as a guarantee of delivering goods shall be conducted in compliance with Articles 182-184 of this Code.

Article 165. Conditions for Applying Measures of Guaranteeing the Delivery of Goods

Decision on the application of measures to guarantee the delivery of goods to the destination customs authority shall be adopted in each particular case by the corresponding customs authority located at the point of beginning of the transit of such goods, provided there are grounds for the application of such measures.

Such guarantee measures are compulsory for excisable goods.

The owner of the goods or the authorized person shall choose the type of guarantee measure to be applied during delivery of goods under the customs control to the destination customs authority unless otherwise is specified by law.

The guarantee measures for delivering goods under the customs control and transported between the customs authorities shall be applied at the expense of the owner of such goods (or authorized person). Such expenses shall not be subject to reimbursement by customs and other state power authorities of Ukraine.

The procedures and conditions for the application of the guarantee measures for delivering goods to the destination customs authority are determined by this Code and other laws of Ukraine.

CHAPTER 24. STORAGE OF GOODS AND VEHICLES AT THE CUSTOMS WAREHOUSES

Article 166. Goods Stored Exclusively by the Customs Authority

The following goods shall be obligatory transferred to the customs authority for storage purposes:

- 1) goods, which are not allowed during shipment into the customs territory of Ukraine because of the established prohibitions or limitations on importation of those into Ukraine, or on transit through the territory of Ukraine, and which are not shipped outside the territory of Ukraine the same day;
- 2) goods imported by the citizens into the customs territory of Ukraine and subject to taxes and fees, if the relevant payments have not been made;

3) goods, which prior to expiration of the term of temporary storage by the enterprises established by the Parts I-III of Article 108 of this Code, have not been declared by their owners or authorized persons to the relevant customs regime;

4) goods declared for refusal for the benefit of the State in accordance with the Article 246 of this Code.

Goods subject to obligatory transfer to the customs authority for storage purposes (except currency values) shall be stored at the customs warehouses.

Currency values transferred to the customs authority for storage purposes shall be deposited in the authorized banks of Ukraine.

Article 167. Customs Warehouses

Customs warehouses are the premises, reservoirs, open and sheltered lots, which belong or are used by the customs authorities and which are specially equipped for the purposes of storage of goods.

Article 168. Goods and Vehicles, Which are Stored at the Customs Warehouses

The following goods may be stored at the customs warehouses (except goods, specified in the Article 166 of this Code):

1) goods in the temporary storage under the customs control in accordance with the Article 99 of this Code;

2) goods exported outside the customs territory of Ukraine and which are stored under the customs control after the customs clearance until their actual exit;

3) goods and vehicles under transit regime in accordance with the Article 200 of this Code;

4) goods under customs warehouse regime in accordance with the Article 212 of this Code;

5) samples of goods and technical and technological documents selected by the customs authority for purposes of classification of goods in accordance with the Article 314 of this Code;

6) samples of goods and technical documents selected by the customs authority for purposes of verification of certificates of goods in accordance with the Article 316 of this Code;

7) probes and samples of goods for purposes of expert evaluation selected in accordance with the Article 382 of this Code in cases of non-compliance with the customs rules;

8) goods and vehicles ceased in accordance with the Article 377 of this Code.

Goods, which are declared in accordance with the different customs regimes, shall be stored at the customs warehouses in accordance with the legislation established for the corresponding customs regime.

Goods that need special storage conditions or special equipment shall not be stored at such customs warehouses, which do not have the necessary conditions or the necessary equipment.

The specially authorized central body of the executive power on customs practice shall establish the procedures for the regime of work of customs warehouse.

Customs authority shall be liable for the safety, loss or damage of the goods and vehicles at corresponding warehouses in accordance with the procedure established by law.

Article 169. Time Period for Storage of Goods and Vehicles at the Customs Warehouses

Goods, which are specified in the clauses 1-3 of part I, Article 166 and clauses 1-3 of part I, Article 168 of this Code may be stored at the customs warehouses for the period of three months.

Goods, which are specified in clause 4 of part one, Article 168 may be stored at the customs warehouses for the time periods established in the Article 214 of this Code.

Goods, which are specified in clause 4 of part I, Article 166, goods and documents, specified in the clauses 5-7 of part I, Article 168 as well as goods and transportation facilities, specified in clause 8 of part I, Article 168 of this Code may be stored at the customs warehouses for the time periods established in legislation.

Article 170. Operations with the Goods Stored at the Customs Warehouses by the Enterprises

Except operations, specified in the Article 63 of this Code, the enterprises, which store the goods under customs control at the customs warehouses may (after getting permission and under control of the above mentioned bodies) perform the following operations with such goods:

1) prepare goods for sale and transportation (division of the shipment, formatting of the shipment, sorting out, packaging and repackaging);

- 2) mix up the goods (components) without changing the characteristics and features of such goods;
- 3) simple warehouse operations.

Article 171. Release of Goods from the Customs Warehouses

The goods, which are stored by the enterprises at the customs warehouses under the customs control may be released to such enterprises only after the customs clearance.

The goods, specified in the part one of this Article may also be released to a person, to whom the right to own or the right to possess such goods was transferred during the storage period.

CHAPTER 25. DISPOSAL OF GOODS, VEHICLES AND FUNDS

Article 172. Disposal of Goods and Vehicles

Goods, which are stored under the customs control (except cases, specified in clause 1, part 1, Article 166 of this Code) and which were not requested by the owner or by the authorized person before the expiry of the storage time period, specified in parts 1 and 2, Article 169 of this Code, shall be sold. The customs authority shall provide the corresponding information to their owner at least two weeks in advance.

Goods, which have not complied with the customs rules as well as goods with the specially prepared hiding places and vehicles, which have been used for transportation of such goods through the customs border of Ukraine and confiscated in accordance with the Court decision, shall be sold, or in cases specified in the legislation, shall be transferred free of charge or shall be destroyed within the time periods established by the law for the execution of court decisions.

Goods, which are quickly perishable or which have the limited storage time period (including goods, which have not complied with the customs rules), confiscated by the customs authorities shall be sold, taking into account the expiration date.

Goods refused by the owner for the benefit of the State shall be sold, and in cases specified in the law – shall be transferred or destroyed within the time periods, specified in the law.

Goods and vehicles specified in parts 1-4 of this Article shall be sold at the customs auctions, commodity exchange or at trading enterprises in accordance with the procedure established by the legislation.

Goods are sold with the assessment of all taxes and fees, which should be paid if such goods and vehicles are moved through the customs border of Ukraine, at the rates valid for the selling day, in cases where taxes and fees were not paid in advance.

The Cabinet of Ministers of Ukraine shall establish the procedure for disposal of certain types of goods, which are not subject to sale.

Article 173. Organization of Customs Auctions

The Cabinet of Ministers of Ukraine shall establish the procedure for organization of customs auctions.

Article 174. Disposal of Funds, Received from the Sale of Goods and Vehicles

Funds, received from sale of goods, which have not been requested by the owner or by the authorized person before the expiration of the storage time period, specified in parts 1 and 2, Article 169 of this Code – after deduction of the corresponding taxes and fees, payment of commission fee to the trading enterprise, which sold such goods, as well as reimbursement of such expenses as storage, evaluation, clearance, transportation, expert evaluation and analysis (in case it is need), mailing corresponding notices to their owners – shall be kept in the deposit bank account of the corresponding customs authority.

In case the goods, which have not complied with the customs rules, are quickly perishable or have limited storage time period are sold before the Court decision is made – all the money, received as proceeds from the sale shall be withdrawn as collateral (pledge) according to this Code in case of confiscation of such goods.

In case the Court does not adopt a decision regarding confiscation of goods, specified in the second paragraph of this Article, or if such case is terminated – money, received as proceeds from the sale of such goods shall be allocated and kept at the bank account of the corresponding customs authority after withholding of the corresponding amounts of taxes and fees. Expenses, specified in part one of this Article, shall not be reimbursed and the commission fee to the trading enterprise shall not be paid.

In case the Court shall adopt a decision only about financial sanction (penalty) – a part of money, received as proceeds from the sale of goods specified in the second part of this Article, may be confiscated as collateral for such sanction.

Money, received as proceeds from the sale of goods and vehicles, confiscated in accordance with the Court decision, as well as from goods, which have been transferred by the owner for the benefit of the

State – after the reimbursement of expenses specified in the part one of this Article and payment of the commission fee to the trading enterprise – shall be transferred by the specially authorized central body of the executive power on customs practice to the State Budget of Ukraine.

The owner of the goods, specified in the part one (and in the corresponding cases – in the part two) of this Article or the authorized person may receive from the customs authority the remaining amount of money, received as proceeds from the sale of such goods within the limitation period established by law. In case, specified in the part one of this Article, the limitation period shall be calculated from the date of transfer of goods for storage; and in cases, specified in the parts three and four of this Article – from the date of enforcement of the court decision. Money not collected during such time period, are transferred to the State Budget of Ukraine.

Article 175. Disposal of the Confiscated Currency

Currency of Ukraine, foreign currency, confiscated according to the Court decision is transferred to the State Budget of Ukraine.

SECTION VII. BUSINESS ACTIVITIES ON PROVIDING SERVICES IN DECLARING GOODS AND VEHICLES AND TRANSPORTATION OF GOODS, BEING MOVED ACROSS THE CUSTOMS BORDER OF UKRAINE AND UNDER CUSTOMS CONTROL

CHAPTER 26. CUSTOMS BROKER

Article 176. Customs Broker

Customs broker (intermediary) – is a company that declares the goods and vehicles, which are moving through the customs border of Ukraine. Such company has a license for engaging into the customs broking activity issued by the specially authorized central body of executive power on customs practice. Only a resident company may engage in customs broking activity. Activity in declaring goods vehicles moved through the customs border of Ukraine may be conducted by a branch office or representation of such a company on behalf of such company.

Article 177. Procedure of Customs Broking Activity

Customs broker shall perform the broking activity in compliance with this Code and the regulations approved by the specially authorized central body in licensing matters and the licensing body.

The relationship between the broker and the person represented by such broker shall be governed by the Power of Attorney Agreement.

Article 178. License for Engaging into the Customs Broking Activity

Licensing of a broking activity is determined by the Law of Ukraine “On Licensing the Certain Types of Economic Activities”.

Article 179. Rights and Duties of the Customs Broker

The customs broker, on behalf of the person he represents, may engage in operations connected with submission to the customs authority of goods and vehicles and documents thereto for customs clearance, within limits granted by that person.

The customs broker shall be authorized to declare goods and vehicles with any customs authority of Ukraine.

In the process of activities, specified in the part one of this Article the customs broker shall fulfill its duties and bear responsibility as envisaged by law.

Article 180. Register of the Customs Brokers

The specially authorized central body of executive power on customs practice shall keep the Register of Customs Brokers and shall ensure its periodic publication.

Article 181. Information Obtained by a Customs Broker and his Employees from a Person They Represent

Information obtained by a customs broker and employees thereof from a person they represent while customs procedures, may be used exclusively for the purposes of such procedures.

For divulgence of information, containing commercial secret or being confidential, customs broker is liable according to the law.

CHAPTER 27. CUSTOMS CARRIER

Article 182. Customs Carrier

Customs carrier - is an enterprise engaged in carriage of goods under customs control between the customs authorities without application of the guarantee measures, specified in clauses 1 and 2, part 1 Article 161 of this Code. Such company has a license from the specially authorized central body of executive power on customs practice to engage into the corresponding activity.

Only a resident enterprise may become a customs carrier.

The corresponding agreement between the customs carrier and the owner of the goods shall regulate such relations.

Article 183. Licensing of the Customs Carrier's Activity

Licensing of the activities of a customs carrier is conducted according to the Law of Ukraine "On the Licensing the Certain Economic Activities".

Article 184. Register of the Customs Carriers

The specially authorized central body of the executive power on customs practice shall maintain the Register of the Customs Carriers and shall provide its periodic publication.

SECTION VIII.

CUSTOMS REGIME FOR GOODS AND VEHICLES, WHICH ARE MOVING THROUGH THE CUSTOMS BORDER OF UKRAINE

CHAPTER 28. GENERAL PROVISIONS

Article 185. Types of Customs Regime

The following types of customs regime shall apply in accordance with the purpose of the movement of goods through the customs border of Ukraine:

- 1) import;
- 2) re-import;
- 3) export;
- 4) re-export;
- 5) transit;
- 6) temporary import (export);
- 7) customs warehouse;
- 8) special customs zone;
- 9) duty free shop;
- 10) processing within the customs territory of Ukraine;
- 11) extermination or destruction;
- 12) refusal for the benefit of the State.

The customs regime that is not stipulated in the part one of this Article may be applied only in case of introduction of specific changes into this Code.

Article 186. Choice and Change of the Customs Regime

The Declarant may choose on his own the customs regime for the goods and vehicles, which are transferred through the customs border of Ukraine, in accordance with the purposes of such transfer, and on the basis of documents submitted to the customs authority for the purposes of customs control and clearance.

The customs regime may be changed in case of adherence to all procedures stipulated by the declared regime, legislative requirements on tariff and non-tariff regulation measures and submission to the customs authority of relevant documents (for the purposes of customs control and clearance), that confirm the declared regime.

Article 187. Regulation of Issues on the Application of Customs Regimes

The specially authorized central body of executive power on customs practice regulates the issues of customs control in accordance with the declared customs regime and identifies procedures for such control, and issues explanations regarding specific features of application of the customs procedures.

CHAPTER 29. IMPORT

Article 188. The Concept of the Import Customs Regime

“Import” means the customs regime for bringing goods into the customs territory of Ukraine for the purposes of free circulation without time limits for such goods’ presence within the country and without any customs limitations for the use of goods.

Article 189. Conditions for Moving Goods under the Import Regime

Importation of goods into the customs territory of Ukraine under import regime envisages the following:

- submission to the Customs authority of documents certifying the purposes and conditions of goods importation into the customs territory of Ukraine;
- payment of taxes and fees on goods upon importation into the customs territory of Ukraine in accordance with the Ukrainian legislation;
- compliance with the provisions of the effective legislation with respect to non-tariff regulation and other restrictions.

CHAPTER 30. RE-IMPORT

Article 190. The Concept of the “Re-Import” Customs Regime

“Re-import” means the customs regime when goods originating in Ukraine and exported from the customs territory of Ukraine in accordance with the Customs Export Regime, and are imported back into the customs territory of Ukraine no later than within the specified by law time period for the purposes of free circulation within this territory.

Article 191. Conditions for Moving Goods Under the Re-Import Regime

The goods may be moved through the customs border of Ukraine under the re-import regime in the following cases:

- such goods originate in the customs territory of Ukraine;
- such goods are re-imported into the customs territory of Ukraine not later than one year after exit (export) thereof from the customs territory of Ukraine;
- such goods have not been used outside Ukraine for purposes of gaining profit;
- such goods are imported in the same conditions as at the moment of exiting (exportation), except the natural wear or natural losses in case of normal transportation and storage conditions, as well as other cases stipulated by the Cabinet of Ministers of Ukraine.

Article 192. Customs Clearance of Goods under the Re-Import Regime

Customs clearance of goods under the re-import regime may be completed only when these goods (declared under the re-import regime) may be identified with the previously exported goods.

Article 193. Drawback of Export Duty and Other Funds during Re-Import of Goods

In case of re-import of goods within one year from the date of exportation of such goods the amounts of the export duties paid during the exportation shall be refunded to the owners of such goods or to the authorized persons on the basis of their applications. The above-mentioned amounts shall be returned by the State Treasury Bodies from the State Budget of Ukraine in accordance with the applications from the corresponding customs authorities.

A person, who re-imports the goods, pays the money received by the exporter as payments or for the account of other privileges granted during the exit (export) of these goods, as well as the accrued interest on these amounts of money, calculated according to the rate of the National Bank of Ukraine.

CHAPTER 31. EXPORT

Article 194. The Concept of the "Export" Customs Regime

"Export" means the customs regime for bringing goods outside the customs territory of Ukraine for purposes of free circulation without obligatory return of such goods into the country, and without any customs restrictions for the utilization of goods outside Ukraine.

Article 195. Conditions for Moving Goods under the Export Regime

Exportation of goods outside the customs territory of Ukraine in export regime envisages the following:

- submission to the customs authority of documents that certify the purposes and conditions for exportation of goods outside the customs territory of Ukraine;
- payment of taxes and fees on the export of goods;
- adherence by the exporter to the requirements envisaged by law.

CHAPTER 32. RE-EXPORT

Article 196. The Concept of the "Re-Export" Customs Regime

"Re-export" is the customs regime when goods originated outside Ukraine are exported from the customs territory of Ukraine in accordance with the customs export regime no later than within the specified by law time period after the date of importation.

Article 197. Conditions for Moving the Goods under the Re-Export Regime

The goods originated in other countries may be re-exported from the customs territory of Ukraine in the following cases:

- the body authorized by the Cabinet of Ministers of Ukraine or other body specified in the international agreement of Ukraine, concluded according to the procedure established by law, files a permission with the customs authority for the re-export of goods;
- such goods are re-exported in the same conditions as at the moment of importation into the customs territory of Ukraine, except the natural wear or natural losses in case of normal transportation and storage conditions;
- such goods were not used inside Ukraine for the purposes of gaining profit;
- such goods are re-exported outside the customs territory of Ukraine not later than within one year after importation of those into the customs territory of Ukraine;

Article 198. Tax Exemption of the Re-Exported Goods

Tax exemption of goods, being re-exported, is determined exclusively by tax laws of Ukraine.

Article 199. Non-Application of Non-Tariff Regulations to Re-Exported Goods

Goods being re-exported are not subject to non-tariff regulation measures unless cases determined by law.

CHAPTER 33. TRANSIT

Article 200. The Concept of the “Transit” Customs Regime

“Transit” is the customs regime when the goods and vehicles under the customs control are transferred from one customs authority to another (or within the activity zone of the same customs authority) without any use of such goods and vehicles within the customs border of Ukraine.

Article 201. Conditions for the Transit of the Goods and Vehicles

Transit of goods and vehicles shall comply with the following rules:

- such goods shall stay in the same conditions except for the normal wear and tear or losses in case of the normal transportation and storage conditions;
- such goods and vehicles shall not be used within the customs border of Ukraine for other purposes than transit.
- in cases, specified in the effective legislation of Ukraine, such goods may be transferred in accordance with the transit permit, issued by the corresponding authorized body;
- in cases, specified by the Cabinet of Ministers of Ukraine, such goods may be transferred along the determined routs and itineraries;
- such goods shall be delivered to the destination customs authority within the time period, specified in the effective (in Ukraine) transport rules for different transport means, itineraries, distance to the destination point and other transportation conditions.

Article 202. Guarantees for the Transit of Goods and Vehicles

In cases, specified in Ukrainian legislation, the customs authority allows the transit of goods and vehicles only in case of availability of the properly equipped transport facilities and application of guarantees for delivery of goods, specified in Articles 161 – 164 of this Code.

Article 203. Permit for Goods to be Moved Under the Transit Regime

The customs authority adopts the decision on permitting the transit of goods, provided that necessary documents are available, and the carrier complies with this Code and other laws of Ukraine.

CHAPTER 34. TEMPORARY IMPORT (EXPORT)

Article 204. The Concept of “Temporary Import (Export)” Customs Regime

“Temporary import/export” means the customs regime when goods may be imported into the customs territory of Ukraine or exported from the customs territory of Ukraine with the obligatory return of such goods without any changes, except for natural wear and tear in case of normal transportation conditions.

Article 205. Conditions for Transferring Goods under the Temporary Import (Export) Regime

Transfer of goods in the temporary import/export regime envisages the following:

- submission to the customs authority of documents explaining the purposes of the temporary importation of goods into the customs territory of Ukraine (exportation outside the customs territory of Ukraine);
- submission to the customs authority executing customs clearance of the goods, which are temporarily imported (exported), of the obligation on their exporting/importing back within the time periods needed for the temporary import/export. Such time period shall not exceed those established by this Code;
- in some cases specified in the effective legislation of Ukraine – to submit to the customs authority conducting customs clearance of goods, which are temporarily imported/exported, the permit, if such is stipulated by the law of Ukraine, of the corresponding competent body regarding temporary import/export of goods.

Article 206. Goods that may be Permitted for the Temporary Import/Export with the Conditional Full Exemption from Taxation

The permission for the temporary import/export into/outside the customs territory of Ukraine with the obligation to export back, shall be allowed for the following goods:

- goods for purposes of demonstration or use at the exhibitions, conferences, fairs or other similar events;
- professional equipment for persons, who arrive into (leave) Ukraine for purposes of preparing reports, making records or programs for mass media or shooting films;
- containers, pallets, packages, as well as any other goods imported/exported in connection with any commercial transactions but in case such importation is not a commercial transaction itself;
- samples of goods and items as well as commercials provided they remain the property of a person who stays or resides outside the territory of temporary importation and their disposal on the territory of Ukraine is not a commercial transaction;
- goods, imported with the educational, scientific and cultural purposes (scientific and educational equipment, equipment for improvement leisure of the sailors, as well as any other goods imported within the educational scientific and cultural activities);
- personal belongings of the passengers and goods, which are imported for purposes of sports;
- materials for purposes of advertisement and tourism;
- vehicles, which are used exclusively for purposes of movement of passengers and goods across the customs border of Ukraine.

Article 207. Permit for Goods to be Moved under the Temporary Import (Export) Regime

The corresponding customs authority, in accordance with the procedure established by the Cabinet of Ministers of Ukraine, shall adopt a decision on permitting the temporary importation (exportation) of goods into the customs territory of Ukraine.

The customs authority shall not allow the movement of goods under the temporary import /export regime, if there is no possibility to properly identify such goods, and if there is no guarantee for returning such goods.

Article 208. Time Limits for Temporary Import (Export) of Goods

The total time period for the temporary import/export of goods is one year.

Taking into account the purposes of importation/exportation of goods and other circumstances, a corresponding customs authority may extend the time period specified in the part one of this Article.

Article 209. Exemption from Tax Payments during the Temporary Import (Export) of Goods

The exemption from taxes of goods, which are temporarily imported/exported into/from the customs territory of Ukraine shall be regulated exclusively by tax laws of Ukraine.

Article 210. Disposal of Goods after the Expiration of the Term of Temporary Import (Export)

Before the temporary import (export) term expires, the person, who provided an obligation regarding the exportation (importation) back of the goods under temporary import/export regime, shall do the following:

- 1) export (import) these goods in accordance with the obligation provided to the customs authority, or
- 2) announce changing of the customs regime of such goods, which is allowed in compliance with the provisions of this Code and other legislative acts of Ukraine.

Article 211. Guarantees regarding the Goods under the Temporary Import/Export Regime

In case of the temporary import (export) of certain types of goods, specified by the Cabinet of Ministers of Ukraine the customs authorities shall perform the customs clearance of goods under the temporary entry/exit regime, if the temporary entry (exit) regime is guaranteed in accordance with law.

CHAPTER 35. CUSTOMS WAREHOUSE

Article 212. The Concept of "Customs Warehouse" Regime

"Customs warehouse" is the customs regime, when goods, which are imported from outside the customs territory of Ukraine, are stored under the customs control without levying the taxes and fees, and without the application of non-tariff regulation measures and other limitations during the storage period, and the goods, which are exported from the customs territory of Ukraine, are stored after the customs clearance under the customs control until actual exportation outside the customs territory of Ukraine.

Article 213. Conditions for Placing Goods under a Customs Warehouse Regime

Goods may be placed under the customs warehouse regime except for goods, which are forbidden for importing into/exporting from Ukraine and transiting through its territory, as well as goods specified in the list of the Cabinet of Ministers of Ukraine.

The goods, which may damage other goods or which need some special storage conditions, shall be stored in the specially equipped premises.

Article 214. Time Period for the Storage of Goods under the Customs Warehouse Regime

The time period for the storage of goods, which are imported from outside the customs territory of Ukraine under the customs warehouse regime, shall not exceed three years from the date these goods were transferred under the above regime.

The time period for the storage of excisable goods (imported from outside the customs territory of Ukraine) under the customs warehouse regime shall not exceed three months from the date they were placed under such regime.

Goods imported from outside the customs territory of Ukraine and stored in the customs warehouse regime prior to the expiration of the storage time period established in the parts 1 and 2 of this Article shall be declared by the owner or by the authorized person under another customs regime.

Goods being exported from the customs territory of Ukraine may be stored under the customs warehouse regime up to three months from the date they were placed under such regime. Before the expiration of the abovementioned time period, such goods shall be brought outside the customs territory of Ukraine.

Article 215. Operations with Goods under the Customs Warehouse Regime

The following operations may be performed with goods under the customs warehouse regime:

- operations which are needed for the purposes of storage of such goods;
- preparation of goods (in accordance with the permission from the customs authority) for sale (alienation) and transportation: size reduction of consignments, formation of shipments, sorting out, packaging, repackaging, marking, loading, unloading, reloading and other similar operations.

The specially authorized central body of executive power on customs practice shall establish a specific list and a procedure for performing such operations.

Article 216. Customs Licensed Warehouses

Goods under the customs warehouse regime shall be stored by way of using the specially equipped premises, reservoir, lots and so on – customs licensed warehouses.

Licensing of the activities as regards to the establishment and operation of customs licensed warehouses is conducted according to the Law of Ukraine “On Licensing Certain Types of Economic Activities” and licensing conditions.

CHAPTER 36. SPECIAL CUSTOMS ZONE

Article 217. The Concept of “Special Customs Zone” Customs Regime

“Special customs zone” means such customs regime, when goods, which are imported into the territory of the corresponding special (free) economic zone from the customs territory of Ukraine, as well as goods exported from the territories of the above mentioned zones outside the customs territory of Ukraine – shall not be subject to tariff and non-tariff regulations measures.

Article 218. Special Customs Zones

Special customs zones are the parts of the territory of Ukraine, where the customs regime of special customs zone is introduced. For the purposes of taxation, the goods imported into the special customs zones shall be treated as such, which are located outside the customs territory of Ukraine.

Special customs zones shall be created in accordance with the effective legislation of Ukraine on special (free) economic zones by way of adopting a separate law for each special customs zone, which identifies the status, territory and time period of such zone and specific features of the application of the legislation

of Ukraine on such territory. The law shall establish the conditions with respect to creation of special customs zone, types of goods, allowed to such zone and types of operations performed with the goods within the zone. The law shall also identify the conditions regarding the organization of functioning of the special customs zone and duties of the administration of such zone with respect to compliance with the requirements of customs legislation during the customs control.

Article 219. Requirements to Special Customs Zones

For the purposes of proper organization of customs control, the corresponding customs authority may request the following from the administration of the special customs zone:

- to build the fence around the zone;
- to introduce limitations with respect to access to such zone during the certain hours;
- to take other measures in accordance with the law on such zone, which are not preventing the normal operation of the zone.

Any construction within the border of special customs zones without the preliminary agreement with the corresponding customs authority shall not be allowed.

Article 220. Measures to be Taken by Customs Authorities to Ensure Customs Control in Special Customs Zones

For the purposes of customs control at the special customs zones, the customs authorities shall be empowered to do the following:

- to exercise permanent control and monitoring over the special customs zones borders, as well as over the access to such zone;
- to request proper accounting of the transferring of goods (for purposes of control) from the persons who transfer goods across the special customs zone border;
- to audit the goods transferred across the special customs zone border for the purposes of compliance with this Code and to avoid the transfer of forbidden goods;
- to audit goods in the special customs zones;
- to take other measures, prescribed by law, for the purposes of ensuring reliability of the customs control.

Article 221. Operations Allowed in the Special Customs Zones

Production and other commercial operations with goods are allowed in special customs zones in compliance with the provisions of this Code. The law on each special customs zone shall list the types of goods and types of operations with these goods.

For purposes of compliance with the legislation, and taking into account the types of goods – certain limitations and restrictions may be introduced for the operations with goods in the special customs zones. The Cabinet of Ministers of Ukraine shall establish such prohibitions and restrictions with respect to activities in the special customs zones.

The Cabinet of Ministers of Ukraine may restrict or prohibit importation of certain goods into special customs zones.

Article 222. Time Periods for Keeping Goods in the Special Customs Zones

The goods may be stored in the special customs zones for whole period of operation of such zones.

Article 223. Accounting of Goods in the Special Customs Zones

The persons, who perform operations with goods in special customs zones, shall keep records of goods which are imported, exported, stored, produced, processed, purchased and sold, and shall submit to the customs authority the reports on such operations in accordance with the procedure established by the specially authorized central body of executive power on customs practice. Any changes with the goods within the special customs zones shall be reflected in the accounting documents.

Article 224. Disposal of Goods Located in the Special Customs Zone in Case of its Liquidation

In case of liquidation of the special customs zone, the owner of goods located in such zone or the corresponding authorized persons shall be obliged to utilize the above mentioned goods until all issues connected with the liquidation of the special customs zone are resolved.

If the owner or the authorized person does not utilize the above-mentioned goods before the all issues connected with the liquidation of special customs zones are resolved such goods shall be declared for another customs regime.

CHAPTER 37. DUTY FREE SHOP

Article 225. The Concept of a "Duty Free Shop" Customs Regime

"Duty free shop" means the customs regime when the goods and related works that are not meant for consumption in the customs territory of Ukraine are located and sold under the customs control in crossing points open for international connection at the customs border of Ukraine and other customs control zones determined by the customs authorities of Ukraine without collection of duties, taxes established with regard to export and import of such goods and without application of the non-tariff regulation measures.

Article 226. Conditions for Sale of Goods under the Duty Free Shop Regime

The goods and related works under the duty free shop regime shall be sold only at the special trade establishments (duty free shops).

Duty free shops shall be so located, and shall have such conditions for sale of the goods, as avoiding the possibility of importing the mentioned goods directly into the customs territory of Ukraine for consumption.

The premises of the duty free shop shall include the following:

- 1) sales area (areas), including bars and public catering points;
- 2) back rooms;
- 3) the shop's warehouse.

The goods may be stored under the duty free shop regime for the period up to three years from the date they were placed under such regime. After the expiration or during such period the goods may be declared to the customs authority for the purposes of:

- 1) free circulation within the customs territory of Ukraine;
- 2) free circulation outside the customs territory of Ukraine;

- 3) transfer under the customs warehouse regime;
- 4) destruction under the customs control.

The owners of the duty free shops may have customs warehouses for storage and for their further supply to the shops of goods of all types, including excisable.

Duty free shops may sell all types of foodstuff and non-foodstuff products domestically produced (on terms of export) and of foreign origin, except those prohibited, according to the legislation for import/export and transit through the territory of Ukraine.

The Cabinet of Ministers of Ukraine shall establish the procedure for opening and liquidation of duty free shops as well as the procedure of the sale of goods in the duty free shops.

Article 227. Requirements to the Owners of the Duty Free Shops

Only a resident enterprise may become an owner of a duty free shop.

The owner of the duty free shop shall be obliged:

- 1) to declare on time to the customs authority the goods, which are brought into the shop or taken out from the shop and submit all the necessary documents for purposes of customs control and customs clearance;
- 2) to exclude the possibility of bringing goods into the shop and taking them out from the shop without customs control;
- 3) to comply with the provisions of this Code and other legislative acts of Ukraine on the activities of the duty free shops;
- 4) to maintain accounting of goods, which are brought in and sold by the duty free shop, and to submit to the corresponding customs authorities the report on goods flow in the shop in accordance with the form established by the specially authorized central body of executive power on customs practice.

Article 228. Disposal of Goods in Case of Liquidation of the Duty Free Shop

After the decision on liquidation of duty free shop becomes effective, the transfer of new shipments of goods, as well as sale of goods at the shop, shall not be allowed. The goods in the duty free shop shall be immediately transferred to the warehouse of the shop and shall be declared under another customs regime by the owner of the shop.

CHAPTER 38. PROCESSING AT THE CUSTOMS TERRITORY OF UKRAINE

Article 229. The Concept of "Processing at the Customs Territory of Ukraine" Customs Regime

Processing at the customs territory of Ukraine is the customs regime, when goods originating in other countries are imported and processed in the customs territory of Ukraine (in accordance with the procedure established in legislation) without application of the non-tariff regulation measures thereto, provided that the products of processing are exported outside the customs territory of Ukraine in accordance with the export customs regime.

Article 230. Permit to Process Goods at the Customs Territory of Ukraine

The importation and processing within the customs territory of Ukraine of goods originating in other countries shall be made in accordance with the customs authority's permit pursuant to this Code and other laws of Ukraine.

Permit to process goods in the customs territory of Ukraine may be cancelled by the customs authority in case this permit has been issued on the grounds of false data (which were substantially important during adoption of such decision) or in case the resident enterprise (which obtained such permit) is not complying with the provisions of this Code and other legislative acts of Ukraine.

Article 231. Operations with Respect to the Processing of Goods

Number of operations with respect to processing of goods under the customs regime of processing in the customs territory of Ukraine shall not be limited.

Operations with respect to processing the goods may include the following:

- 1) general processing of the goods;
- 2) re-processing of the goods – assembling, mounting, adjusting and receiving other goods as a result of such activities;
- 3) repair of the goods, including renewal and adjusting;
- 4) use of certain goods, which are not results of processing but which improve or facilitate the processing of products in case such goods are fully depleted during such process.

This Code and other laws of Ukraine shall establish restrictions for certain operations in processing of the goods and procedure for carrying out operations in processing of goods (including the possibility and conditions for using Ukrainian goods in the processing).

Other enterprises may perform certain operations on processing the goods on behalf of the resident enterprise, which obtained the permit to process the goods within the customs territory of Ukraine (in case the customs authority allows such activities). In such case the enterprise, which obtained the permit for conducting operations in processing goods shall be liable to the customs authority for compliance with the established procedure for processing the goods.

In case conditions for processing the goods within the customs territory of Ukraine envisage performance of several operations on their processing by several enterprises – each of such enterprise shall obtain the permit of customs authority to process the goods within the customs territory of Ukraine. Transfer of goods between enterprises participating in their processing shall be made in accordance with the permission and under control of the customs authorities.

Article 232. Terms for Processing of the Goods within the Customs Territory of Ukraine

Terms for processing of the goods within the customs territory of Ukraine shall be calculated starting from the day of finalization of the customs clearance of the goods (imported for processing) by the customs authority.

The customs authority shall establish the term for processing of the goods at the customs territory of Ukraine during the issue of permit to the resident enterprise, taking into account the term which is

necessary for the processing of the goods and disposal of the final products resulting from their processing (but, as a rule, not more than 90 days).

Taking into consideration technological peculiarities of processing, and if it is applicable by the respective ministry or other central body of executive power, the Cabinet of Ministers of Ukraine may establish other terms for processing of the goods, than those mentioned in part two of this article.

Article 233. Examination by the Customs Authority of Compliance with the Regime of Processing within the Customs Territory of Ukraine

The customs authority may examine the goods, which are imported for the purposes of processing within the customs territory of Ukraine, as well as the products of such processing obtained by any person performing operations on processing such goods.

Article 234. The Processed Products Output

The customs authority shall control the mandatory output of processed products after the processing of goods within the customs territory of Ukraine. Data on mandatory output of processed products shall be reflected in the agreement (contract) for processing of goods within the customs territory of Ukraine.

Article 235. Procedure for Customs Clearance of the Processed Products

In case the goods (imported for processing within the customs territory of Ukraine) or the processed products are exported outside the customs territory of Ukraine, such goods shall be declared to the customs authority in a submitted separate document - the customs declaration, which shall specify the number and the value of Ukrainian goods used in operations on processing the goods imported for processing.

Ukrainian goods, which were used in the processing of the goods originated in other countries, shall be cleared through the customs in accordance with the procedure established by this Code and other laws of Ukraine on the customs clearance of the exported goods originated in Ukraine.

Article 236. Conditions for the Sale of the Processed Products within the Customs Territory of Ukraine

If the conditions of processing of foreign-made goods within the customs territory of Ukraine include payment in a form of portion of processed products such products shall be cleared as imports to the customs territory of Ukraine under the regime of import and shall be subject to all corresponding taxes and fees and non-tariff regulation measures, prescribed by legislation.

CHAPTER 39. PROCESSING OUTSIDE THE CUSTOMS TERRITORY OF UKRAINE

Article 237. Concept of "Processing outside the Customs Territory of Ukraine" as a Customs Regime

Processing outside the customs territory of Ukraine means such customs regime, when the goods (in free circulation within the customs territory of Ukraine) are exported without application of tariff and non-tariff regulation measures, for purposes of their processing outside the customs territory of Ukraine, and their subsequent return into Ukraine.

Article 238. Operations Relating to Processing of the Goods outside the Customs Territory of Ukraine

During the processing of the goods outside the customs territory of Ukraine, the operations mentioned in the part two of the Article 231 of this Code, may be performed.

The laws of Ukraine may establish restrictions with respect to certain operations on the processing of goods outside the customs territory of Ukraine.

Article 239. Permit to Export Goods for Processing outside the Customs Territory of Ukraine

Goods may be exported outside the customs territory of Ukraine for processing provided a permit of the customs authority is issued on the basis of the regulations of this Code and other laws of Ukraine.

The customs authority may cancel permit authorizing exportation of goods for processing outside the customs territory of Ukraine in case it has been issued on the basis of inaccurate information substantially important for taking such decision, or in case the resident enterprise (which obtained such permit) does not adhere to the provisions of this Code and other laws of Ukraine.

Article 240. Terms for Processing Goods Outside the Customs Territory of Ukraine

The term of the processing of goods outside the customs territory of Ukraine shall be calculated from the day of completion of the customs clearance by the customs authority of goods, which are exported for processing.

The customs authority shall establish term for the processing of goods outside the customs territory of Ukraine during the issuance of the permit to the resident enterprise, taking into account the duration of the goods processing, but as a rule, it shall not be more than 90 days.

Depending on technological peculiarities, the Cabinet of Ministers of Ukraine may establish other terms for processing of the goods than those stipulated in part two of this article provided such is applicable by the respective ministry or other body of executive power.

Article 241. The Processed Products Output

The customs authority shall control the mandatory output of the processed products after the processing of goods outside the customs territory of Ukraine is completed. Data on mandatory output of the processed products shall be reflected in the agreement (contract) for processing of goods outside the customs territory of Ukraine.

Article 242. The Procedure of Customs Clearance and Taxation of Processed Products

In case of importation into the customs territory of Ukraine of goods, previously exported outside thereof for processing, or the processed products – such goods shall be declared with filing a separate document - the declaration, which shall specify the foreign-made goods used for processing of the Ukrainian goods. Processed goods, which are imported into the customs territory of Ukraine, shall be taxed according to law.

CHAPTER 40. DESTRUCTION OR EXTERMINATION

Article 243. The Concept of “Destruction or Extermination” Customs Regime

Destruction or extermination means the customs regime when goods imported into the customs territory of Ukraine are destroyed under the customs control, or brought into conditions, when the usage of such goods becomes impossible, without charging any import taxes and without application of the non-tariff regulation measures to goods to be destructed or exterminated.

Destruction or extermination of goods shall be allowed on the grounds of the written permit issued by the customs authority on the basis of the permits from other bodies of state power, authorized to control the movement of goods across the customs border of Ukraine. The customs authority shall not issue such permit in case the destruction of the goods may cause substantial damage to the environment, as well as in other cases, specified by the specially authorized central body of executive power on customs practice together with other bodies of state power authorized to control the movement of goods across the customs border of Ukraine.

Article 244. Expenses for Extermination of Goods

The goods shall be exterminated or destructed at the expense of the owner or other interested person.

Article 245. The Waste (Remainders) Resulting from Extermination or Destruction of the Goods

The waste (remainders) resulting from the extermination or destruction of the goods shall be placed under the corresponding customs regime as goods, imported into the customs territory of Ukraine and staying under the customs control.

CHAPTER 41. REFUSAL FOR THE BENEFIT OF THE STATE

Article 246. The Concept of "Refusal for the Benefit of the State" Customs Regime

Refusal for the benefit of the state – means such customs regime, when the owner refuses from the goods, which are under customs control, without any benefit for him. Within the refusal for the benefit of the state regime the taxes and fees are not calculated or levied. Non-tariff regulation measures shall not apply thereto either.

Refusal from the goods for the benefit of the state shall be allowed if there is the permit of the customs authority issued in accordance with the procedure established by the Cabinet of Ministers of Ukraine. The Cabinet of Ministers of Ukraine shall establish the list of goods, which may not be placed into the customs regime of refusal for the benefit of the state.

SECTION IX

SPECIFIC FEATURES OF THE PASSAGE AND TAXATION OF GOODS MOVED THROUGH THE CUSTOMS BORDER OF UKRAINE BY THE CITIZENS

CHAPTER 42. GENERAL PROVISIONS

Article 247. Procedure for the Transportation of Goods across the Customs Border of Ukraine by the Citizens

If the provisions of this Code and other laws of Ukraine were observed, the citizens may transfer across the customs border of Ukraine any goods except for the goods, which are forbidden for importation into/exportation from Ukraine, as well as goods, which are subject to foreign economic restrictions in accordance with the law of Ukraine.

Article 248. Conditions for Sending Goods by the Citizens in the International Postal and Express-Mail Consignments

In accordance with the procedure established in the Articles 151 – 153 of this Code, the citizens can send the goods in the international postal and express-mail consignments, except for the goods, which are forbidden for such sending.

This Code and other laws of Ukraine shall establish the restrictions on the volume and value of goods, as well as the list of goods forbidden for sending in the international postal and express-mail consignments.

Article 249. Calculation of the Value of Goods Transported by the Citizens across the Customs Border of Ukraine for Purposes of Charging Taxes and Fees

Customs value of the goods, transported by the citizens across the customs border of Ukraine, for the purposes of charging taxes and fees, shall be calculated on the basis of the owner's or the authorized person's application, provided there are submitted the confirming documents (cash register receipts, price tags and so on), which may be identified with the available goods. For calculation of the customs value of goods transported in an unaccompanied luggage or cargo shipment, the value of insurance and conveyance (freight) shall be added to the value of the goods preceding their crossing of the customs border of Ukraine.

If there are no confirming documents, or there are reasonable doubts with respect to the truthfulness of the declared value – the customs authorities shall independently determine the customs value on the basis of value of identical or similar (analogous) goods and pursuant to the requirements of this Code.

CHAPTER 43. PASSAGE AND TAXATION OF GOODS THAT ARE BEING TAKEN BY THE CITIZENS OUTSIDE THE CUSTOMS TERRITORY OF UKRAINE

Article 250. Conditions for Exporting Goods outside the Customs Territory of Ukraine by the Citizens

Goods are exported outside the customs territory of Ukraine by the citizens in accordance with procedures and requirements established by legislation of Ukraine for the enterprises, unless otherwise provided by law.

Part one of this Article does not apply to:

- 1) goods the aggregate value of which does not exceed 200 Euro;
- 2) items that are exported (sent) in connection with one's leaving Ukraine to reside permanently outside the country;
- 3) items that are a part of inheritance registered in Ukraine for the benefit of a non-resident citizen, on condition that the inheritance items are verified by the agencies that perform notarial acts;
- 4) goods that are temporarily exported (sent) outside the customs territory of Ukraine under a written pledge to return such goods;
- 5) goods that were temporarily imported into the customs territory of Ukraine under a written pledge to export such goods back, which must be supported by necessary documents;
- 6) items received by non-resident citizens as awards or prizes for participation in contests, competitions, festivals, etc. held in the territory of Ukraine, which is supported by necessary documents;
- 7) items (property) for personal use, including items needed for preliminary settlement, purchased in Ukraine by non-resident citizens who enjoy privileges under international agreements of Ukraine

concluded in accordance with procedure established by law, that are taken (sent) by such citizens in connection with their ultimate leaving Ukraine;

8) goods purchased by non-resident citizens in the territory of Ukraine, provided that total value of such goods does not exceed the amount of foreign currency imported by such citizens at the time of entry in Ukraine, under the condition that necessary documents are provided;

9) items for personal use that are exported (sent) by non-resident citizens in connection with their ultimate leaving Ukraine;

10) goods, exported by non-resident citizens in connection with their ultimate leaving Ukraine, having the value that does not exceed 80% of the profit gained during their employment or studying in Ukraine provided the necessary documents are presented.

Article 251. Restrictions on Exportation by Citizens Certain of Goods from the Customs Territory of Ukraine

The citizens are not allowed to export outside the customs territory of Ukraine, regardless their total value:

1) goods, which are subject to tariff and non-tariff regulation measures, according to the legislation of Ukraine;

2) goods that are subsidized by State, except personal belongings;

3) goods of industrial assignment (equipment, components, materials, etc.) according to the list determined by the Cabinet of Ministers of Ukraine.

Exportation of precious metals (except for bank metal, memorable, and jubilee and commemorative coins of Ukraine of precious metals), precious stones and articles thereof, as well as cultural values for the purpose of their alienation is allowed, according to the procedure determined by the Cabinet of Ministers of Ukraine. The procedure for exporting bank metals, memorable, and commemorative and jubilee coins of Ukraine of precious metals is determined by the National Bank of Ukraine.

(part two of Article 251 in wording of Law of Ukraine
N 291-IV of November 28, 2002)

CHAPTER 44. PASSAGE AND TAXATION OF GOODS THAT ARE IMPORTED BY THE CITIZENS INTO THE CUSTOMS TERRITORY OF UKRAINE

Article 252. Conditions for Importing Goods into the Customs Territory of Ukraine by the Citizens

Goods that are imported by the citizens into the customs territory of Ukraine are subject to taxation, according to the procedures and on terms established by the laws of Ukraine.

Part one of this Article does not apply to:

1) goods the aggregate value of which does not exceed 200 Euros;

2) items for personal use that are temporarily imported (sent) by non-resident citizens into the customs territory of Ukraine under a written pledge to export such goods back;

3) items that are imported (sent), when the citizens move into Ukraine for permanent residence;

- 4) goods that are imported (sent) by citizens who enjoy privileges under the international agreements of Ukraine concluded in accordance with the procedure established by law;
- 5) items that are imported (sent) by citizens, and are a part of inheritance made available outside the customs territory of Ukraine for the benefit of a resident, provided there is a proof of the inheritance certified by agencies that perform notarial acts in the country, in which the inheritance is executed. The said proof must be legally verified by the consulate institutions of Ukraine that operate in the respective country;
- 6) goods, received by the resident citizens as awards and prizes at competitions, contests, festivals outside the customs territory of Ukraine, provided there is a documentary proof of the fact of award;
- 7) goods that have been previously exported (sent) by the citizens from the customs border of Ukraine under a written pledge to import such goods back, and that are being imported (sent) back into the customs territory of Ukraine, provided that the corresponding export customs declaration is available.

Article 253. Exemption from Taxation of Alcoholic Beverages and Tobacco Products that are Imported into the Customs Territory of Ukraine by Citizens

Citizens may import alcoholic beverages and tobacco products into the customs territory of Ukraine without paying the import taxes, in the following quantities per person:

- a) 2 liters of wine and 1 liter of strong alcoholic beverages;
- b) 200 cigarettes or 50 cigars, or 250 grams of tobacco, or a set of such items with the total weight no more than 250 grams.

Alcoholic beverages and tobacco products, specified in part one of this Article, shall be exempt from taxation on condition that such goods:

- are imported into the customs territory of Ukraine by the citizens who are 18 years of age or older;
- being moved through the customs border of Ukraine in accompanied luggage or in hand baggage of the citizens.

Alcoholic beverages and tobacco products, regardless of quantity thereof, shall not be exempt from taxation if a person that takes them into the customs territory of Ukraine was not present in Ukraine for less than 24 hours.

Article 254. Conditions for Temporary Importation of Goods by Citizens into the Customs Territory of Ukraine under a Pledge to Take the Goods back outside the Country, Including the Purpose of Transit

Taxable goods that are temporarily imported (sent) by citizens into the customs territory of Ukraine under a pledge to export the goods outside the country, as well as for the purpose of transit, shall be allowed for importation into the customs territory of Ukraine on condition that guarantees are provided to the customs authority. Types of guarantees, terms and procedure of their provision and return shall be established by law.

In the event of violation of the pledge to export the goods outside the customs territory of Ukraine, or violation of transit through the customs territory of Ukraine of the goods specified in part one of this

Article, except for situations where such violation occurred as a result of an accident or Acts of God, which is evidenced by necessary documents, the guarantees shall be used for securing reimbursement.

**SECTION X. CONTROL OVER MOVEMENT THROUGH THE CUSTOMS BORDER OF UKRAINE OF
GOODS CONTAINING INTELLECTUAL PROPERTY OBJECTS**

**CHAPTER 45. SPECIFICS OF MOVEMENT THROUGH THE CUSTOMS BORDER OF UKRAINE OF
GOODS THAT CONTAIN INTELLECTUAL PROPERTY OBJECTS**

**Article 255. Procedures for customs control and customs clearance of goods that contain objects of
intellectual property rights**

Customs control and customs clearance of goods that contain objects of intellectual property rights shall be carried out in accordance with the procedure established by this Code and laws of Ukraine.

**Article 256. Customs Authorities' Measures Regarding the Control of Movement across the Customs
Border of Ukraine of Goods that Contain Objects of Intellectual Property Rights**

A right holder, who has grounds to believe that in the process of movement of goods across the customs border of Ukraine, his rights to an object of intellectual property rights are violated, or may be violated, has a right to file an application with the specially authorized central body of executive power on customs practice to register goods containing objects of intellectual property rights.

The specially authorized central body of executive power on customs practice maintains a registry of goods referred to in part one of this Article.

Procedures of registration of goods containing objects of intellectual property rights, including the right holder's application form, the list of information and documents that are to be attached to the application, procedure for filing and review of the application, procedure for maintaining the registry, shall be established by the Cabinet of Ministers of Ukraine.

After the registration of the respective goods with the registry of the specially authorized central body of executive power on customs practice, the customs authorities of Ukraine shall take measures to prevent movement of infringing goods into the customs territory of Ukraine.

To ensure the customs control over the movement of goods that contain objects of intellectual property rights through the customs territory of Ukraine, information regarding the registered goods shall be communicated to all customs authorities of Ukraine.

**Article 257. Suspension of the Customs Clearance of Goods Containing Objects of Intellectual Property
Rights**

If the customs authority, based on the data contained in the register of goods containing objects of intellectual property rights, which is kept by the specially authorized central body of executive power on customs practice, detects that the goods submitted for customs control and customs clearance have characteristics of infringing goods, then their customs clearance is to be suspended. Such goods should be stored at the temporary storage warehouses or customs authority warehouses.

The customs authority head or his/her deputy makes the decision to suspend the customs clearance for the period of 15 calendar days, reserving, however, the possibility of prolonging this term for not more than 15 calendar days.

Not later than the next work day following the date when the decision on suspending the customs clearance of the goods mentioned in part 1 of this Article has been made the customs authority informs the appropriate owner of the right to the object of intellectual property about the fact that these goods crossed the customs border of Ukraine, as well as informs the declarant about the reasons of their customs clearance suspension, and also informs the declarant about the name and address of the owner of rights to object of intellectual property. The notification sent to the owner of the right to intellectual property object includes the list of those goods the customs clearance of which has been suspended, these goods' customs value declared by the declarant, the mentioned goods' owner's name and address, as well as other needed information.

With the customs authority's permission, the owner of the rights to object of intellectual property and the declarant may take probes and samples of the goods in respect to which the decision to suspend the customs clearance has been made to be sent for expertise. The copies of the appropriate expert conclusions should be submitted to the customs authority.

If the fact, that the goods, in respect of which the decision to suspend the customs clearance has been made, are infringing, is confirmed within the timeframes set forth in part 2 of this Article, the customs authority shall initiate proceedings on the case on violation of customs rules pursuant to the procedure set forth by this Code, while the goods, that are directly involved in this violation, are detained as prescribed by law.

If the fact, that the goods, in respect of which the decision to suspend the customs clearance has been made, are infringing, is not confirmed within the timeframes set forth in part 2 of this Article, the customs clearance of these goods should be carried out in a usual manner.

Article 258. Cooperation of Customs Authorities with Other Bodies of State Power in the Area of Intellectual Property Rights Protection

In controlling the movement across the customs border of Ukraine of goods containing objects of intellectual property rights, the customs authorities shall interact with other bodies of state power authorized to take measures in the area of protection of intellectual property rights, in accordance with procedures established by the legislation of Ukraine.

SECTION XI.

GOODS CUSTOMS VALUE.

GOODS CUSTOMS VALUE DETERMINATION METHODS

CHAPTER 46. GENERAL PROVISIONS

Article 259. Customs Value of Goods

The customs value of goods is the value of goods crossing the customs border of Ukraine declared by the Declarant or determined by a customs authority calculated as at the time of the goods' crossing the customs border of Ukraine in accordance herewith.

Article 260. Determination of Customs Value of Goods and Customs Valuation of Goods Crossing the Customs Border of Ukraine

The procedure of goods customs value determination and goods customs valuation shall apply to goods crossing the customs border of Ukraine.

The methods of determination of the customs value of goods crossing the customs border of Ukraine as well as conditions of their application are determined herein.

Article 261. Use of Goods Customs Value Data

All data concerning goods customs value as declared by the Declarant as at the time of the goods crossing of the customs border of Ukraine and accepted by a customs authority shall be used for the purposes of assessing taxes and fees and maintaining customs statistical records, while in relevant cases – for calculating amounts of applicable penalties, charges and other sanctions established under the law of Ukraine have been applied.

Article 262. Goods Customs Value Declaration

The Declarant shall report (declare) goods customs value and the method applied to its calculation to a customs authority at the time of goods crossing the customs border of Ukraine by filing a customs value declaration.

The procedure and terms for declaring the customs value of goods crossing the customs border of Ukraine shall be established by the Cabinet of Ministers of Ukraine while the procedure of filling in customs value declarations shall be set by a specially authorized central body of executive power on customs practice.

The Declarant shall determine goods customs value in compliance with the provisions hereof.

The control of observance of goods customs value determination requirements shall be a responsibility of the customs authority performing the goods customs clearance.

Article 263. Confidentiality of Information

Information provided by a Declarant and identified as containing commercial secret or being confidential may be used by a customs authority exclusively for customs purposes and may under no circumstances be disclosed, passed to third parties including other power bodies without a Declarant's express permission unless otherwise is prescribed by the law.

Officials of customs authorities shall be liable for disclosure of information constituting commercial secret or being confidential, as determined by the law.

Article 264. Rights and Responsibilities of Declarants Declaring Goods Customs Value

The goods customs value as reported by a Declarant and information pertaining to its determination method must be based on accurate and documented quantitative information.

Should a need in confirmation of the goods customs value as declared by a Declarant arise, the Declarant shall be obliged to file, on a customs authority demand, all data required by the latter. A customs authority may, at its discretion, make a decision on unacceptability of the customs value determination method chosen by a Declarant.

Whenever a need in specifying the goods customs value as reported by a Declarant arises, or in the event of the Declarant's disagreement with the customs value determined by the customs authority, the Declarant shall have the right to address the customs authority requesting that the latter submit to the Declarant the declared goods for their free circulation against the guarantee of an authorized bank, or to pay taxes and fees in accordance with the customs valuation as performed by the customs authority. A bill of exchange issued by a Declarant to the customs authority and availed by an authorized bank, or a deposit with a bank may also serve as a guarantee.

Upon the provision by the Declarant of an authorized bank's guarantee, the customs authority shall be obliged to release goods into free circulation. In case of payment by the Declarant of taxes and fees in accordance with the customs valuation performed by the customs authority and the final decision made by a higher customs authority or a court to the effect of applying the customs valuation as performed by the Declarant, the customs authority in question must reimburse to the Declarant the amount equal to the excess of taxes and charges payment.

The period of effect of guarantee obligations arising hereunder may not exceed 30 calendar days as of the date of goods release into free circulation.

Additional costs incurred by the Declarant in connection with specification of the goods customs value as declared by it or in connection with filing additional information with the customs authority shall be borne by the Declarant while the extension of the customs clearance period ensued from customs valuation performance may not be used by the Declarant as grounds for being eligible to factual deferment in paying customs duty and other taxes and fees.

Article 265. Rights and Responsibilities of Customs Authority Controlling Goods Customs Valuation

The customs authority controlling the observance of provisions hereof at performance of the customs valuation shall have the right to make decisions on the accuracy of the goods customs value declared by the Declarant.

In the absence of data attesting to the accuracy of determination of the goods customs value reported by the Declarant, or in the event of reasonable doubts concerning the data filed by the Declarant, the customs authority may, at its discretion, determine the customs value of goods being declared using, in sequence, customs value determination techniques as established herein based on the entirety of data available to such customs authority, including pricing information covering identical or similar goods with proper adjustments required hereunder.

Having received a written query from a Declarant, the customs authority must, within at most 30 calendar days, provide the Declarant with a written notice explaining grounds on which the customs value declared by the Declarant may not be accepted by the customs authority as a basis for taxes and fees calculation.

A customs authority's decision to the effect of the goods customs value determination may be appealed against following the procedure set by applicable laws.

CHAPTER 47. METHODS OF DETERMINING CUSTOMS VALUE OF GOODS IMPORTED INTO UKRAINE, PROCEDURE OF THEIR APPLICATION

Article 266. Methods of Determining Customs Value of Goods Imported Into Ukraine

The customs value of goods imported into Ukraine shall be determined using the following methods:

- based on the price of agreement covering the goods being imported (Method 1);
- based on the price of agreement covering identical goods (Method 2);
- based on the price of agreement covering similar (analogous) goods (Method 3);
- based on value deduction (Method 4);
- based on value addition (Method 5);
- reserve method (Method 6).

The method based on the price of agreement covering the goods being imported shall be the principal method for the goods customs value determination.

To the extent that the principal method may not be applied, each of the following methods in sequence as listed above in this Article shall be applied. In so doing, the determining party shall apply each subsequent method inasmuch as the customs value of goods may not be determined through applying the preceding method.

The value deduction and addition methods may be used in optional sequence at the Declarant's sole discretion.

Article 267. The Method Based on Price of Agreement Covering Goods Being Imported

In accordance with the method based on the price of agreement covering the goods being imported, the customs value is the price of agreement actually paid or the price subject to payment for goods imported in accordance with their designation into Ukraine as at the time of such goods' crossing the customs border of Ukraine.

At determining goods customs value, the following costs shall be added to the price of agreement unless they were included therein before:

1) costs associated with the delivery of goods to the airport, port or another point of goods' entry into the customs territory of Ukraine;

a) transportation costs;

b) cost of loading, unloading, reloading and transshipment of goods;

c) insurance amounts;

2) expenses incurred by a buyer;

- a) commission and brokerage fees save for commissions for the goods purchase;
- b) value of containers and other reusable packing insofar as pursuant to the goods nomenclature such containers and packing are deemed to constitute an integral part of the goods being evaluated;
- c) cost of packaging including the cost of packaging materials and works associated with packaging;

3) a respective part of cost of the below goods and services, which are directly or indirectly provided to the buyer on a free-of-charge basis or at a discounted price to be used in connection with production or sale (alienation) in relation to exportation of goods being evaluated unless a respective part was included in the declared price:

- a) of raw materials, materials, components, semi-finished products and other parts being integral elements of goods being evaluated;
- b) of tools, dies, moulds and other similar products used for the production of goods being evaluated;
- c) of materials invested in the production of goods being evaluated (lubricants, fuels, etc.);
- d) of engineering surveying, research and development works, designing, artwork, layouts and drawings executed outside of the customs territory of Ukraine and being essential for the production of goods being evaluated;

4) licensing and other types of payments charged for the use of intellectual property rights which the buyer (importer) must directly or indirectly make as a precondition for the sale (alienation) of goods being evaluated;

5) a respective part of profits from any subsequent resale, transfer or use in Ukraine of goods being evaluated which directly or indirectly benefits the buyer.

The method described above shall be used for goods customs value determination to the extent that the following conditions are met:

1) no restrictions apply to the buyer's (importer's) rights to use goods being evaluated except those:

- a) introduced by or required under the law;
- b) restricting the geographical area where goods may be resold (re-alienated);

c) insignificantly affecting the price of the good.

2) sale (alienation) and the price of agreement do not depend on conditions the effects of which may not be reasonably foreseen;

3) data used by the Declarant are documented, accurate and expressed in quantitative terms;

4) neither part of the profit from any subsequent goods resale, distribution or use by the buyer will be received, directly or indirectly, in favor of the buyer;

5) parties to the agreement (exporter and importer) are not interdependent persons save for cases referred to in clause 7 of this part. In this context, the persons shall be deemed interdependent inasmuch as:

a) one of the parties to the agreement being a natural person or official of one of the enterprises-parties to the agreement is concurrently an official of the other enterprise-party to the agreement;

b) parties to the agreement are co-owners of the enterprise;

c) parties to the agreement are bound with labor relations;

d) one of the parties to the agreement owns a contribution (share) or stock with voting rights in the authorized fund of the other party to the agreement being equal to at least five percent of the authorized fund amount;

e) both parties to the agreement are being controlled, directly or indirectly, by a third person;

f) parties to the agreement jointly control, directly or indirectly, a third person;

g) either of the participants to the agreement controls, directly or indirectly, the other participant;

h) parties to the agreement being natural persons or officials of participating enterprises are kin;

6) persons mutually associated in business of which one is an exclusive agent, distributor or a sole concessionaire shall be deemed interdependent parties only in cases when criteria referred to in clause 5 of this part apply to them;

7) in the case of a trade agreement between interdependent persons, the price of agreement must be accepted for the customs valuation purposes to the extent that a customs authority deems this price acceptable.

In the event that a customs authority deems the price of agreement between interdependent parties unacceptable for the customs valuation purposes, it must notify the Declarant of the reasons for which such price may not be accepted for the customs valuation purposes. The price of agreement between interdependent parties must be accepted by a customs authority insofar as the Declarant can prove that the above price is reasonably close to one of the below values:

- a) customs value of identical or similar goods as defined in accordance with Articles 268 and 269 hereof;
- b) customs value of identical or similar goods as defined in accordance with Article 271 hereof;
- c) customs value of identical or similar goods as defined in accordance with Article 272 hereof.

The use of comparisons referred to in clause 7 of part three of this Article must take into account distinctions in integral components described in clauses 1 through 5 of part two of this Article, as well as costs incurred by the seller at selling to the buyer which is not interdependent, and not incurred at selling to an interdependent buyer. These comparisons shall be drawn upon an importer's request and shall serve grounds solely for comparison. At customs value determination, alternative contract values specified in sub-clauses (a) through (c) of the clause 7, part three of this Article may not be accepted as a basis.

Article 268. Method of Valuation Based on the Price of Agreement Covering Identical Goods

The method of customs value determination based on the price of agreement covering identical goods stems from price of agreement covering identical goods with observance of conditions contained in this Article. Goods are deemed identical to goods being evaluated as long as all their characteristics are identical with the same of goods being evaluated. These characteristics include:

- a) physical properties;
- b) quality and market reputation;
- c) country of origin;
- d) manufacturer.

Minor exterior distinctions may not be regarded grounds for declining the consideration of goods as identical inasmuch as said goods meet, as a whole, the requirements of part one of this Article.

The price of agreement covering identical goods shall be used as a basis for determining the customs value of goods as long as these goods have been:

- a) sold (alienated) for the purpose of importation into Ukraine;
- b) imported simultaneously with goods being evaluated or not earlier than 90 days prior to the importation of goods being evaluated;
- c) imported in approximately the same quantities and subject to the same commercial terms. In case that identical goods were imported in deviating quantities or subject to different commercial terms, the

Declarant shall be obliged to make respective adjustment of their price with taking into account of these deviations and to provide the customs authority with a documented justification of the price.

The customs value of goods determined on the basis of the price of agreement covering identical goods must be adjusted taking into account costs referred to in Article 267 hereof.

The Declarant must make proper adjustments based on accurate and documented data.

In the event that for the purposes of applying this method more than one price of agreement covering identical goods appear available, the lowest of those available shall be used for determining the customs value of goods being imported.

Article 269. Method of Valuation Based on Price of Agreement Covering Similar (Analogous) Goods

Customs value determination following the method based on price of agreement covering similar (analogous) goods stems from the price of agreement covering similar (analogous) imported goods with observance of requirements contained herein. In this context, goods are deemed similar (analogous) insofar as they, though not identical according to all characteristics, have similar features and are composed of similar components for which reason they perform similar functions in comparison with the goods being evaluated and are deemed commercially interchangeable.

The following characteristics shall be considered while making a decision on the goods similarity (analogy):

- 1) quality, trade mark availability and market reputation;
- 2) country of origin;
- 3) manufacturer.

Provisions of parts three through six of Article 268 hereof shall govern the application of the method based on price of agreement covering similar (analogous) goods.

Article 270. Reservations with Respect to Application of Methods Based on the Price of Agreement Covering Identical Goods and Based on Price of Agreement Covering Similar (Analogous) Goods

Goods shall not be regarded identical or similar (analogous) to goods being evaluated if they were produced in a country other than the country of origin of goods being evaluated.

Goods manufactured by a producer other than the producer of goods being evaluated shall be considered only on condition that neither identical, nor similar (analogous) goods manufactured by a producer of goods being evaluated are available.

Goods shall not be deemed identical or similar (analogous) inasmuch as their design, research and development works, artwork, layouts, drawings and other similar works were performed in Ukraine.

Article 271. Method of Valuation Based on Value Deduction

Goods customs value shall be determined using the method based on value deduction in cases when goods being evaluated, identical or similar (analogous) goods will be distributed (alienated) in their unchanged condition within the customs territory of Ukraine.

Goods customs value determination is based on the price of a goods unit at which the goods being evaluated, identical or similar (analogous) goods are sold in largest shipments within Ukraine as at the

time of the closest possible proximity to the time of importation, however, not later than after 90 days following the date of the evaluated goods importation, to a buyer not being an interdependent person in relation to the seller.

Inasmuch as the below components may be severed, they shall be deducted from the price of a goods unit:

- 1) costs associated with commissions payments, common profit extra charges, as well as general costs associated with the sale within the customs territory of Ukraine of goods of the same class and type;
- 2) amounts of import duty, taxes, fees and other payments subject to mandatory payment in Ukraine in connection with goods importation or sale (alienation);
- 3) regular costs incurred in Ukraine in connection with loading, unloading, transportation and insurance.

In the absence of precedents of sale (alienation) of goods being evaluated, identical or similar (analogous) goods featuring same condition as was recorded as at the time of the goods importation, the price of a goods unit having undergone processing may be used as a basis on a Declarant's request, with proper adjustments made with account for the added value and in observance of provisions of parts two and three of this Article.

Article 272. Method of Valuation Based on Value Addition

Goods customs value determination following the valuation method based on value addition uses as a basis the goods price calculated by means of addition of:

- 1) cost of materials and expenses incurred by a producer in connection with the production of goods being evaluated;
- 2) general costs pertinent to sale (alienation) into Ukraine from a country exporting goods of the same kind, including costs of loading, unloading, transportation and insurance to the point of crossing the customs border of Ukraine, as well as other costs;
- 3) profit typically received by an exporter as a result of shipment into Ukraine of goods in question.

The customs value determination following the valuation method based on value addition takes into account all costs incorporated into the goods price in accordance with part two of Article 267 hereof.

Article 273. Reserve Method

To the extent that the customs value may not be determined through sequential application of methods described in Articles 267 – 272 hereof, or whenever a customs authority has reasonable grounds to conclude that these valuation methods may not be utilized, the goods customs value shall be determined subject to international approaches and practices.

The goods customs value following the reserve method shall be determined subject to requirements of laws of Ukraine and must conform to principles and provisions of Article VII of the General Agreement On Tariffs and Trade (GATT) and the 1994 Agreement On Application of Article VII of the General Agreement On Tariffs and Trade (GATT).

For the purposes of customs value determination following the reserve method, the customs authority shall provide the Declarant with pricing information available to such authority.

The following parameters may not be used for determining customs value based on the reserve method:

- 1) goods price on the exporting country's domestic market;
- 2) price of goods shipped from an exporting country to third countries;
- 3) price of Ukrainian-origin goods on Ukraine's domestic market;
- 4) optionally determined or unjustified price of goods;
- 5) production costs deviating from those determined for the calculation of price of identical or similar (analogous) goods as per provisions of Article 272 hereof;
- 6) minimum customs value;
- 7) the higher of the two alternative values.

CHAPTER 48. CUSTOMS VALUE OF GOODS EXPORTED FROM UKRAINE

Article 274. Determination of Customs Value of Goods Exported from Ukraine

The customs value of goods exported from Ukraine subject to a sale-purchase agreement or barter agreement shall be determined on the basis of the price which was actually paid or which is subject to payment for these goods as at the time of their crossing the customs border of Ukraine.

The customs value of goods being exported shall also include actual costs unless they were included in it before:

- a) costs associated with loading, unloading, reloading, transportation and insurance to the point of crossing the customs border of Ukraine;
- b) commissions and brokerages;
- c) licensing and other types of payments charged for the use of intellectual property rights which the buyer must directly or indirectly make as a precondition for the sale (export) of goods being evaluated.

The customs value of goods exported from Ukraine subject to an agreement different from a sale-purchase or barter agreement shall be determined based on the price as confirmed by commercial, transportation, banking, accounting and other documents containing data relevant to the value of goods being evaluated taking into account the goods transportation and insurance to the point of their crossing the customs border of Ukraine.

In the event that pricing restrictions (indicative prices, marginal prices, prices set as a result of antidumping investigations) have been imposed during individual goods exportation, the customs value of such goods in the event of their export from Ukraine shall be determined taking into consideration provisions establishing the procedure of said restrictions application.

Article 275. Customs Value Declaration

In cases of exportation of goods in relation to which export, antidumping, compensatory, or special types of duties have been imposed, the customs value shall be declared through filing a customs value declaration.

The price of agreement actually paid or subject to payment shall serve the grounds for the goods customs value determination unless it has been affected by the below factors:

1) restrictions in regard to seller's (importer's) rights to goods, save for:

a) restrictions imposed under laws;

b) restrictions producing no essential effect on the price of goods;

2) dependence of the sale (alienation) and the price of agreement on adherence to conditions the effects of which may not be reasonably foreseen;

3) data used by the Declarant for the customs value determination are not documented or are not expressed in quantitative terms and accurate;

4) participant to the agreement (exporter and importer) are interdependent persons except for instances when their interdependence has not affected the price of agreement which must be attested to by the Declarant. In this context, the persons shall be deemed interdependent inasmuch as at least one of the below circumstances is the case:

a) one of the parties to the agreement being a natural person or official of one of the enterprises-parties to the agreement is concurrently an official of the other enterprise-party to the agreement;

b) parties to the agreement are co-owners of the enterprise;

c) parties to the agreement are bound with labor relations;

d) one of the parties to the agreement owns a contribution (share) or stock with voting rights in the authorized fund of the other party to the agreement being equal to at least five percent of the authorized fund amount;

e) both parties to the agreement are being controlled, directly or indirectly, by a third person;

f) parties to the agreement jointly control, directly or indirectly, a third person;

g) either of the participants to the agreement controls, directly or indirectly, the other participant;

h) parties to the agreement being natural persons or officials of participating enterprises are kin.

SECTION XII

COUNTRY OF ORIGIN OF THE GOODS

CHAPTER 49. COUNTRY OF ORIGIN OF THE GOODS AND CRITERIA OF DETERMINING A

COUNTRY OF ORIGIN OF THE GOODS. CERTIFICATES OF ORIGIN FOR GOODS

Article 276. Purpose of Determining Country of Origin of the Goods

A country of origin of the goods is determined for the purpose of applying tariff and non-tariff measures of regulating importation of goods into the customs territory of Ukraine and exportation of goods from this territory, as well as for ensuring calculation of goods to maintain foreign trade statistics.

Article 277. Determining Country of Origin of the Goods

Determination of the country of origin of the goods is to be carried on the basis of the principles adopted in international practice. A procedure for determining the country of origin of the goods shall be established by the Cabinet of Ministers of Ukraine on the basis of provisions of this Code.

The country of origin of goods is considered the country in which the goods were completely manufactured or sufficiently processed in accordance with criteria established in this Code.

A group of countries, a customs union of countries, a region or part of a country, may be considered a country of origin of goods, if it is necessary to mark them out for purposes of determining the origin of the goods.

Article 278. The Goods Fully Manufactured in a Country

The following goods shall be considered goods fully manufactured in a country:

- 1) minerals extracted in the territory of the country or in its territorial waters, or in its continental shelf and from the sea floor, provided that the country has an exclusive right to develop such resources;
- 2) plant products, grown or harvested in the territory of the country;
- 3) live animals that were born and raised in this country;
- 4) products received from animals raised in this country;
- 5) products of hunting, fresh-water and sea fishing;
- 6) products of sea fishing, obtained and (or) produced in the world ocean by the vessels of this country, as well as vessels leased (freighted) by this country;
- 7) secondary raw materials and waste materials, which are the result of production and other operations carried on in this country;
- 8) hi-tech products obtained in open space at space ships that belong to this country or leased by this country;
- 9) goods produced in this country exclusively from products specified in items 1 – 8 of this Article.

Article 279. Criterion of Sufficient Processing of Goods

If two or more countries participate in producing the goods, then the origin of goods is to be determined in accordance with the criterion of sufficient processing.

A criterion of sufficient processing is based on:

- 1) a rule that requires change in the classification code of the goods based on the Harmonized Commodity Description and Coding System at the level of any the first four digits after their processing;
- 2) or on a rule of ad-valor portion, which provides for changes in the value of the goods as a result of its processing, provided that the added value in this case is not less than 50 percent of the value of the goods received as a result of the processing, or if the value of the used materials from other country or of unknown origin is less than 50 percent of the value of the goods received as a result of the processing;
- 3) or on a list of manufacturing or technological operations, which do not result in changing of the code of the goods or its value under the ad-valor portion rule, but on certain conditions may be considered sufficient.

The list of such manufacturing and technological operations shall be established by the Cabinet of Ministers of Ukraine.

In case of application of the ad-valor portion rule the value of the goods received as a result of processing in this country shall be determined on the basis of 'ex-works' of the manufacturer of the goods. Value of the parts of the goods originated from other countries is determined on the basis of their customs value, and value of the parts of unknown origin is determined depending on the determined price of their first sale in this country

If with respect to particular goods or particular country (countries) the criterion of sufficient processing is not specifically established, then the rule shall be applied under which the goods are considered subjected to sufficient processing if as a result of such processing the classification code of the goods under the Harmonized Commodity Description and Coding System at the level of any of the first four digits was changed.

Criteria of sufficient processing for particular goods and countries shall be established and applied in accordance with the procedure defined by the Cabinet of Ministers of Ukraine on the basis of the requirements of this Code.

Article 280. Additional Provisions regarding Formulating the Criterion of Sufficient Processing of the Goods

Shall not be considered as such, that meet the criterion of sufficient processing:

- 1) operations related to ensuring preservation of the goods during storage or transportation;
- 2) operations related to preparing the goods for sale and transportation (making smaller sets of goods, preparing goods for deliveries, sorting, repackaging);
- 3) simple assembling operations;
- 4) mixing goods (components) without giving to the resulting products characteristics that substantially distinguish them from the initial components;
- 5) a combination of two or more of the specified above operations;
- 6) slaughtering of animals.

Article 281. Determining the Country of Origin of the Goods, Provided that Such Goods are Shipped in Set Quantities

Goods that are delivered in set quantities, either assembled or not, and that cannot be delivered in one consignment due to production or transportation reasons, as well as in cases where a consignment is split into smaller bundles due to a mistake, must be considered as one consignment for purposes of determining the origin of the goods if the declarant wants so.

Conditions for application of this rule are:

- 1) a preliminary notification of the customs authority of the splitting the consignment of assembled or not assembled goods into smaller consignments and of the reasons for it, detailed specification of each consignment with indication of the Ukrainian Classification of Commodities of Foreign Economic Activity

codes, as well as of their values and countries of origin of goods that belong to each consignment of goods;

- 2) a documentary proof that the consignment of goods was split into smaller groups by mistake;
- 3) delivery of all sets of goods from one country by one supplier;
- 4) importation of all consignments of goods through the same customs authority (customs check- point);
- 5) delivery of all sets of goods within the period that does not exceed six months from the date of submission of the customs declaration or the end of the term for its submission with respect to the first consignment of goods.

Article 282. Verification of the Origin of Goods

To verify the origin of the goods a customs authority in the events envisaged by law may require submission of a certificate of origin of goods.

In case of exportation of goods from the customs territory of Ukraine, a certificate of origin of the goods, where it is necessary and this fact is reflected in national rules of the country of importation or provided for by international agreements of Ukraine, concluded pursuant to the procedure established by law, is to be issued by the body authorized by the Cabinet of Ministers of Ukraine.

In case of importation of the goods into the customs territory of Ukraine a certificate of origin of the goods must be submitted obligatory:

- 1) for the goods, originated from countries which Ukraine treats preferentially in accordance with the Customs Tariff of Ukraine;
- 2) for the goods, importation of which from respective countries is subject to regulation by quantitative limitations (quotas) or other measures of regulating foreign economic activities;
- 3) if so is provided by international agreements of Ukraine, concluded in accordance with the procedure established by law, and also by legislation of Ukraine in the area of environment protection, health protection, consumer rights protection, public order, state security and other vital interests of Ukraine;
- 4) in cases where documents, that are submitted for customs clearance purposes, do not contain information concerning the origin of the goods, or if a customs authority has sufficient reasons to believe that the declared information regarding the origin of goods is incorrect.

Article 283. Certificate of Origin of the Goods

A certificate of origin of the goods must undoubtedly state that the goods in question are originated from the respective country, and must specify:

- 1) a written statement of the exporter on the country of origin of the goods;
- 2) a written statement of a competent authority of the country of exportation, which has issued the certificate, stating that the information reflected in the certificate is correct.

A certificate of origin of the goods must be submitted together with the customs declaration, customs value declaration and other documents that are submitted for purposes of customs clearance.

If a certificate of origin is lost, its officially certified duplicate shall be accepted.

If doubts arise as to the validity of the certificate of origin or information shown on it, including information on the country of origin of the goods, a customs authority may address the authority that has issued the certificate, or competent organizations of the country, mentioned as the country of origin of the goods, with a request to provide additional information.

The goods shall not be regarded as such that originate from the particular country until customs authority, in cases specified in this Code, receives properly issued certificate of origin of the goods or the requested by the customs authority additional information.

Article 284. Grounds to Refuse to Release the Goods

A customs authority may refuse to release the goods for their movement across the customs border of Ukraine only if there are sufficient grounds for a conclusion that the goods are originated from the country, the goods from which may not be allowed for the release under the laws of Ukraine and international agreements of Ukraine, concluded in accordance with the procedure established by law. Failure to submit a properly prepared certificate of origin or information regarding the origin of goods may not serve the basis to refuse in customs clearance and release of the goods for movement across the customs border of Ukraine.

Goods, the country of origin of which has not been reliably established, shall be released by a customs authority on condition of payment at full rates of the customs duties.

To the goods may be applied (resumed) a most favorable treatment or a preferential treatment, provided there was received a properly issued certificate of origin of such goods not later than a year after the date of customs clearance.

Article 285. Additional Provisions regarding Determination of Country of Origin of Goods

In determining the country of origin of goods there won't be taken into account the origin of energy, machines, equipment and instruments, which are used in their manufacturing.

Specifics of determining the country of origin of the goods that are imported from the territories of special (free) economic zones, located in the territory of Ukraine, shall be established by law.

SECTION XIII

CUSTOMS PRIVILEGES

CHAPTER 50. CUSTOMS PRIVILEGES FOR MISSIONS OF FOREIGN COUNTRIES, INTERNATIONAL ORGANIZATIONS, REPRESENTATIVE OFFICES OF FOREIGN COMPANIES AND OFFICIALS IN UKRAINE AND UKRAINIAN DIPLOMATIC MISSIONS ABROAD

Article 286. Customs Privileges for Diplomatic Missions of Foreign Countries

Provided that the procedure for movement of goods through the customs border of Ukraine, established by this Code, is followed, the diplomatic missions of foreign countries in Ukraine may import into/export from the customs territory of Ukraine goods intended for official (service) use with exemptions from customs examination and taxes, and fees, other than charges for customs clearance in places other than the location of the customs authorities or performed outside the normal business hours established for customs authorities.

Article 287. Customs Privileges for Head of Diplomatic Missions of Foreign Country and Diplomatic Personnel of Such Missions

Head of a diplomatic mission of a foreign country and diplomatic personnel of such missions and members of their families, residing together with them, but not being citizens of Ukraine and not residing permanently in Ukraine, may import into Ukraine goods for personal use including articles for initial housing and export from Ukraine goods for personal use, including those purchased in Ukraine provided that the procedure for movement of goods through the customs border of Ukraine, established by this Code, is followed. Such goods shall be exempted from taxes and fees other than charges for customs clearance performed in places other than the location of the customs authorities or outside the normal business hours established for customs authorities.

The personal luggage in possession of heads of diplomatic missions of foreign countries, diplomatic personnel of representations of such missions and members of their families who reside with them shall be exempt from customs examination unless there are sufficient reasons to believe that such luggage contains goods intended for purposes other than personal use or goods, importation/exportation of which is prohibited by law, or which are subject to quarantine or other special regulations. Such examination is to be done only in the presence of persons mentioned in this Article or their authorized representatives on the written order of the head or deputy head of the corresponding customs authority. Such examination may be done also in the customs checkpoint on the written order of the head or deputy head of the customs checkpoint.

Article 288. Customs Privileges for Administrative and Technical Personnel of Diplomatic Missions of Foreign Countries

Administrative and technical personnel of diplomatic missions of foreign countries and members of their families residing with them, who are not citizens of Ukraine and do not reside in Ukraine permanently, may import into Ukraine goods for initial housing with exemption from taxes and fees, other than charge for customs clearance performed in places other than the location of the relevant customs authorities or outside the normal business hours set forth for customs authorities.

Persons, mentioned in part 1 of this Article, shall import into Ukraine and export from Ukraine goods in accordance with the procedure provided for in Article 287 of this Code.

Article 289. Application of Customs Privileges for Diplomatic Personnel of Diplomatic Missions of Foreign Countries to Administrative and Technical Personnel and Operating Staff

If a special agreement with a foreign country so provides, customs privileges established by this Code for diplomatic personnel of diplomatic missions of foreign country may be applied, on the reciprocal basis concerning each separate country, to administrative and technical personnel and operating staff of such missions and members of their families who are not citizens of Ukraine and do not permanently reside in Ukraine.

Article 290. Application of Customs Privileges to Consulates of Foreign Countries and Personnel thereof

Customs privileges for diplomatic missions of foreign countries and the relevant diplomatic personnel provided for in this Code shall apply to consulates of foreign countries, consulate officials, including heads of such consulates, the relevant consular personnel and their family members.

On the basis of a special agreement with a foreign country customs privileges, envisaged for the personnel of diplomatic missions of foreign countries in accordance with this Code, shall apply on the basis of reciprocity for each separate country, to consular operating staff and their family members if they are neither citizens of Ukraine, nor permanently reside in Ukraine.

Article 291. Movement of Diplomatic Pouch and Consular Valise across the Customs Border of Ukraine

Neither diplomatic pouch, nor consular valise, moving across the customs border of Ukraine, may be unsealed or kept. Where customs authorities have sufficient reasons to believe that a consular valise contains goods not provided for in part three of this article, the customs authority may request that such consular valise should be opened by the authorized persons of such country in the presence of customs officials. Where the request is rejected such valise must be returned to the point of departure.

All luggage seats containing diplomatic pouch and consular valise must have visible exterior features indicating its nature.

Diplomatic pouch may include exclusively diplomatic documents and goods for official use; and consular valises - only official correspondence and documents or goods intended exclusively for official use.

Article 292. Customs Privileges for Foreign Diplomatic and Consular Couriers

Foreign diplomatic and consular couriers on the basis of reciprocity may import into/export from Ukraine goods for their personal use that shall be exempt from customs examination, taxes and fees, other than charges for the customs clearance performed in places other than the location of the customs authority or outside the normal business hours set forth for customs authorities.

Article 293. Customs Privileges for the Representatives and Members of Delegations of Foreign Countries

Customs privileges envisaged by this Code for diplomatic personnel of missions of foreign countries shall also apply to representatives of foreign countries, members of the parliamentary and governmental delegations, and also, on the basis of reciprocity, to the members of foreign countries delegations, visiting Ukraine for participation in international negotiations, international conferences and meetings or with other official missions. Such privileges shall also apply to their accompanying family members.

Customs privileges, envisaged in this Code for diplomatic personnel of foreign missions, shall also apply to diplomatic personnel, consular officials of missions of foreign countries, their family members and persons specified in part 1 of this Article, who are transiting through the territory of Ukraine with the same purposes.

Article 294. Customs Privileges for International Organizations, Missions of Foreign Countries to Such Organization and Personnel thereof

Customs privileges for international organizations and missions of foreign countries to such organization, as well as personnel of such organizations and missions and their family members, shall be established

by relevant international agreements of Ukraine, concluded in accordance with the procedure set forth by law.

Article 295. Granting of Customs Privileges to Officials of Missions of Foreign Countries and International Organizations in Ukraine

Privileges provided for in Articles 287-290, and 292-294 of this Code, shall apply to the official, coming to Ukraine for assumption of an office, from the moment of crossing the customs border of Ukraine, and for the official who is already in the territory of Ukraine, the privileges shall apply from the moment of official entering upon his duties.

The same privileges apply to family members of such officials if such family members neither are citizens of Ukraine nor permanently reside in Ukraine.

Article 296. Termination of Customs Privileges for Officials of Missions of Foreign Countries and International Organizations in Ukraine

The privileges provided for in Articles 287 - 290, 292 - 294 of this Code to the officials of missions of foreign countries and international organizations terminate after they leave the territory of Ukraine.

Article 297. Declaration of Goods of Missions of Foreign Countries and International Organizations

Goods, which are not subject to alienation in the territory of Ukraine and intended for official (service) use by missions of foreign countries and international organizations, must be declared to a customs authority and shall be admitted to Ukraine temporarily, for the whole period of accreditation of the mission.

Article 298. Declaration of Goods of Missions of Foreign Companies

Goods, which are not subject to alienation in the territory of Ukraine and intended for the service use by missions of foreign companies, must be declared to a customs authority for the period of three years after accreditation of the mission with an obligation to export them from Ukraine.

Decisions on issues as to prolongation of the term of temporary importation of goods, specified in part 1 of this Article, shall be made by a customs authority running the region where the relevant foreign company representation is located.

Article 299. Declaration of Goods Belonging to Officials of Missions of Foreign Countries and Foreign Companies in Ukraine

Goods, which are not subject to alienation in the territory of Ukraine and intended for personal use by persons, having customs privileges, must be declared to a customs authority at the place of accreditation or temporal stay of such persons and shall be admitted under obligation to export them upon expiration of the whole period of stay of these persons in the territory of Ukraine.

Article 300. The Procedure for Movement across the Customs Border of Ukraine of Goods Belonging to the Diplomatic Missions of Ukraine Abroad

Provided that the procedure for movement of goods across the customs border of Ukraine is followed, diplomatic missions of Ukraine abroad may export from Ukraine goods for official (service) use of such missions with an exemption from taxes and fees other than charges for customs clearance performed in

places other than the location of the customs authorities or outside the normal business hours set forth for customs authorities.

Article 301. Declaration of Goods of Diplomatic Missions of Ukraine Abroad

Goods intended for official (service) use by diplomatic missions of Ukraine abroad shall be declared to a customs authority and shall be released to move from the territory of Ukraine for the whole period of accreditation of such missions abroad.

CHAPTER 51. TARIFF PRIVILEGES (TARIFF PREFERENCES)

Article 302. Concept of Tariff Privileges (Tariff Preferences)

Tariff privileges (tariff preferences) are privileges granted by Ukraine in the process of implementation of its foreign economic policy reciprocally or unilaterally to goods moving across the customs border of Ukraine such as tax exemptions, reduction in rates of duty or imposition of tariff quotas on importation of goods.

Tariff privileges (tariff preferences) are applied exclusively on the basis of tax legislation of Ukraine, this Code, laws of Ukraine and international agreements of Ukraine, concluded in accordance with the procedure established by law.

SECTION XIV

CUSTOMS STATISTICS

Chapter 52. CUSTOMS STATISTICS

Article 303. Objectives of the Customs Statistics

The specially authorized central body of executive power on customs practice shall provide:

- 1) unbiased and reliable record of data on movement of goods across the customs border of Ukraine; collection, formation, studying, generalization, comprehensive analysis and storage of statistical information on customs matters and foreign trade in goods;
- 2) submission of statistical, reference and analytical information on customs matters and foreign trade in goods to bodies of state power according to the procedure, established by the law;
- 3) protection of statistical information not subject to disclosure according to the legislation of Ukraine.

Article 304. The System of Customs Statistics

The customs statistics is an integral part of the national system of statistics and accounting.

The statistic information that is formed, generalized and analyzed by customs authorities shall be used to strengthen the foreign economic relations, improve tariff and non-tariff regulations, further integration of Ukraine in the world system of economic relations.

The statistics information, not envisaged by the state statistics reporting, this Code and other laws of Ukraine, shall be prohibited to require from the customs authorities.

Customs statistics shall consist of customs statistics of foreign trade and special customs statistics.

Article 305. Customs Statistics of Foreign Trade

The customs statistics of foreign trade is a generalized and systematized in appropriate manner information on movement of goods across the customs border of Ukraine.

The customs statistics of foreign trade is formed, generalized and analyzed by the specially authorized central body of executive power on customs practice using the data, included in cargo customs declarations.

The foreign trade customs statistics data are used by bodies of state power according to the procedure, established by legislation, to control the return of taxes, fees and other mandatory payments to the state budget of Ukraine, to exercise currency control, to analyze the situation in foreign trade of Ukraine, its trade and payment balance and the economy as a whole.

Customs statistics shall be based on methodology making it possible to compare the data of customs statistics of foreign trade of Ukraine with the data of state statistics of other countries.

The specially authorized central body of executive power on customs practice shall arrange for regular publication of data of customs statistics of foreign trade.

Article 306. Special Customs Statistics

To ensure the fulfillment of tasks assigned to the customs authorities by Verkhovna Rada of Ukraine, President of Ukraine and Cabinet of Ministers of Ukraine, the customs authorities shall form, generalize and analyze special customs statistics. The procedure for maintaining special customs statistics is determined by legislation.

Article 307. Documents and Data Used to Form the Customs Statistics

Documents and data submitted by natural persons and legal entities to customs authorities as prescribed by the rules of this Code regulating the procedures of customs control and customs clearance shall be used to form the customs statistics.

Article 308. Use of Information Supplied to the Customs Authorities

Statistics and other information supplied to the customs authorities according to this Code and other laws of Ukraine and international agreements of Ukraine, concluded in accordance with the procedure set forth by law shall be used exclusively for customs purposes.

Information on amounts of exports and imports of specific goods may only be supplied to bodies responsible for the state statistics and information about export and import transactions of specific subjects of foreign economic activity shall only be supplied to preliminary investigation authorities in connection with investigation a criminal case.

Information that constitutes state, commercial, banking or other secret protected by the law as well as confidential information shall not be disclosed or used by customs officials of Ukraine for their personal purposes and shall not be transferred to bodies of state power, local self-government bodies, officials thereof, institutions, organizations, enterprises and individuals with an exception of cases, envisaged by the law.

Article 309. Use of Customs Statistics of Foreign Trade

Statistic information on foreign trade shall be used:

- 1) to determine strategy, tactics and the main directions of development of foreign economic activity;
- 2) to analyze and forecast foreign economic policy and situation that exists or will exist in the world market;
- 3) to conduct negotiations on trade and economic issues;
- 4) to apply tariff and non-tariff regulation measures;
- 5) to make up the balance of trade and payments of Ukraine, to develop and implement monetary and financial policies;
- 6) to determine markets for goods;

7) to form the statistics of foreign economic relations of Ukraine.

Article 310. Agency Classifiers

The specially authorized central body of executive power on customs practice shall develop, introduce and keep agency classifiers in customs statistics used in processing customs declarations.

The Cabinet of Ministers of Ukraine or specially authorized by it body shall approve the procedure for keeping the classifiers referred to in part 1 of this Article.

The classifiers referred to in part 1 of this Article shall be used exclusively for customs purposes.

The specially authorized central body of executive power on customs practice shall inform bodies of state power and subjects of foreign economic activities about amendments and additions to classifiers referred to in part 1 of this Article.

SECTION XV. UKRAINIAN CLASSIFICATION OF COMMODITIES OF FOREIGN ECONOMIC ACTIVITIES

CHAPTER 53. MAINTANANCE OF UKRAINIAN CLASSIFICATION OF COMMODITIES OF FOREIGN ECONOMIC ACTIVITIES

Article 311. The Structure and Application of the Ukrainian Classification of Commodities of Foreign Economic Activities

Ukrainian classification of commodities of foreign economic activities (hereinafter - UCCFEA) is formed on the basis of the Harmonized Commodity Description and Coding System.

Goods in UCCFEA are systematized in chapters, groups, commodity items, commodity sub-items, the names and digital codes thereof unified with those of the Harmonized Commodity Description and Coding System.

The seventh, eighth, ninth and tenth digits are used for more detailed classification of goods.

The structure of the ten digits code description of goods in UCCFEA includes the code of group (first two digits), commodity item (first four digits), commodity sub-item (first six digits), commodity category (first eight digits) and commodity subcategory (ten digits).

Article 312. The Procedure for Maintaining the Ukrainian Classification of Commodities of Foreign Economic Activities

Maintenance of UCCFEA envisages:

- keeping record of amendments and additions to the international basis of UCCFEA, explanations and other decisions approved by the World Customs Organization on interpretation of this basis;
- specification of UCCFEA at the national level and introduction of additional measurement units;
- development of explanations and recommendations to ensure uniform interpretation and implementation of UCCFEA;
- taking decisions on the classification and coding of goods in UCCFEA;
- dissemination of information on UCCFEA application;
- keeping and storing the model copy of UCCFEA (in electronic and paper format);
- arrangement for publication and distribution of UCCFEA and explanatory notes thereto;
- performing other functions that are necessary to maintain UCCFEA.

The specially authorized central body of executive power on customs practice shall maintain UCCFEA in accordance with the procedure, established by the Cabinet of Ministers of Ukraine.

Article 313. Classification of Goods

Customs authorities shall classify goods, i.e., they shall refer goods to classification groups of UCCFEA.

Decisions of customs authorities on classification of goods for customs purposes are binding for enterprises and citizens.

Article 314. Submission of Goods Samples in the Process of Classification of Goods

With the aim of finding out reliable data on goods and their conformity with the description of the classification groups of the UCCFEA the customs authorities may request from subjects of foreign economic activity and citizens to supply samples of goods and technical and technological documentation for such goods in order to carry out the expertise.

The Cabinet of Ministers of Ukraine shall approve the procedure of submission of goods samples and technical and technological documentation thereto, the terms and procedures of conducting the expertise as well as the procedures for disposal of goods samples and documentation.

SECTION XVI. VERIFICATION OF CERTIFICATES OF ORIGIN OF GOODS FROM UKRAINE

CHAPTER 54. VERIFICATION OF CERTIFICATES OF ORIGIN OF GOODS FROM UKRAINE

Article 315. Verification of Certificates of Origin of Goods from Ukraine

Customs authorities shall verify the certificates of origin of goods from Ukraine in accordance with procedure established by the Cabinet of Ministers of Ukraine.

Bodies authorized to issue certificates of origin of goods from Ukraine shall at the request of customs authorities supply the necessary information related to the issue of such certificates and necessary for the verification of certificates of origin of goods from Ukraine.

Article 316. Supply of Goods Samples and Documentation in the Process of Verification of Certificates of Origin of Goods from Ukraine

To establish the reliability of data indicated in a certificate of origin of goods from Ukraine, the customs authority may require the enterprises - producers of such goods to supply the documentation, necessary for verification of data indicated in such certificate, and may also directly inspect the production of goods on the enterprises and check the primary documentation, related to such production.

The Cabinet of Ministers of Ukraine shall establish the procedure for submission of goods samples and documentation, terms and order of conducting the expertise and also the procedure for disposal of goods samples.

SECTION XVII. PREVENTION OF SMUGGLING

CHAPTER 55. MEASURES TO PREVENT SMUGGLING

Article 317. Controlled Deliveries of Narcotic Substances, Psychotropic Substances and Precursors

To disclose the sources and channels of illicit turnover of narcotic, psychotropic substances and precursors and persons participating in such turnover, the customs authorities of Ukraine shall together with other state bodies (units) which have the right to carry out operative investigation measures may use the method of controlled delivery of the mentioned substances and precursors.

This Code and the appropriate normative legal act of the specially authorized central body of executive power on customs practice, Ministry of Interior of Ukraine, Security Service of Ukraine, the specially authorized central body of executive power in the matters of Guarding of the State Border of Ukraine, approved by the Prosecutor General' Office of Ukraine and the Ministry of Justice of Ukraine, shall establish the procedure for conducting a controlled delivery.

Article 318. Movement of Goods under a Secret Control

With the aim of detecting and calling to account persons, engaged in smuggling operations, as well as aiming to seize goods moved across the customs border of Ukraine illegally, such goods may be transferred under control and operational supervision of law-enforcement bodies.

The procedure for moving goods under secret control is determined by this Code and the appropriate normative legal act of the specially authorized central body of executive power on customs practice, Ministry of Interior of Ukraine, State Tax Administration of Ukraine, Security Service of Ukraine, the specially authorized central body of executive power in the matters of Guarding the State Border of Ukraine approved by the Office of Prosecutor General of Ukraine and the Ministry of Justice of Ukraine.

SECTION XVIII. VIOLATIONS OF CUSTOMS RULES AND RESPONSIBILITY THEREFOR. RESPONSIBILITY OF PERSONS PARTICIPATING IN CASES ON VIOLATIONS OF CUSTOMS RULES

Chapter 56. GENERAL PROVISIONS

Article 319. The Concept of Violation of Customs Rules

Violation of customs rules is an administrative violation which is an illegal, guilty (deliberate or negligence) act or omission infringing upon the established by the legislation of Ukraine procedure of movement of goods and vehicles across the customs border of Ukraine and which, in accordance to this Code, results in administrative responsibility.

Administrative responsibility for violations specified by this Code occurs only if the violation does not result in criminal responsibility.

Article 320. Responsibility for Violation of Customs Rules

This Code shall establish the responsibility for violation of customs rules.

The subjects of responsibility for violations of customs rules are individuals aged 16 at the time of making the violation or enterprise officials.

Calling persons to account for violations of customs rules does not release them from the obligation to pay the taxes and fees.

Article 321. Peculiarities of Responsibility for Certain Types of Violations of Customs Rules

Violations, envisaged by Articles 331, 332, 348- 350 of this Code, if they are results of an accident or force majeure, confirmed by the relevant documents, do not result in responsibility envisaged by this Code.

Article 322. Penalties for Violations of Customs Rules

Violations of customs rules are subject to the following penalties:

- 1) warning;
- 2) fine;
- 3) confiscation of goods – direct objects of violation of the customs rules, goods with specially fabricated (secret) hiding-places used to conceal the goods, direct objects of the violation of the customs rules, from the customs control, vehicles used for transporting goods, direct objects of violation of the customs rules, across the border of Ukraine.

Article 323. Main and Additional Penalties

Warning and fine may only be applied as a main penalty for the violation made.

Confiscation of goods – direct objects of violation of the customs rules, goods with specially fabricated (secret) hiding-places used to conceal the goods, direct objects of violation of the customs rules, from the customs control, vehicles used for transporting goods, direct object of violation of the customs rules, across the border of Ukraine may be applied as a main or additional penalty.

One violation of customs rules may only result in a main penalty or both in main and additional penalties. If the article, establishing responsibility for violation of customs rules, envisages both main and additional penalties, additional penalty may be applied only together with the main penalty, except for cases, envisaged by part 2 of Article 328 of this Code.

Article 324. Warning

Warning as a penalty for violation of customs rules is an official admonition (given to a violator) against recurring to the same activities in the future. The decision to make a warning is taken by the Head or deputy Head of a customs authority in the form of resolution on imposing an administrative penalty that meets the requirements, envisaged by Article 391 of this Code. The resolution shall be announced to the violator.

Article 325. Fine

A fine is a monetary penalty, imposed on persons for violations of customs rules in cases and terms, established by this Code.

Article 326. Confiscation

Confiscation as a penalty for violation of customs rules is a compulsory withdrawal of goods and vehicles mentioned in part 3 of Article 322 of this Code and uncompensated transfer thereof into the state ownership.

Confiscation of goods and vehicles referred to in part 3 of Article 322 of this Code shall apply even if the relevant goods and vehicles are not the property of the person who made the violation.

Confiscation may be applied only on the basis of a court decision in cases, amount and order, established in this Code and other laws of Ukraine.

Article 327. Ensuring Legitimacy of Imposing Penalties on Violators of Customs Rules

Nobody may be subject to penalties for violation of customs rules other than on the basis and order, established in this Code and other laws of Ukraine.

Legitimacy of imposing penalties for violations of customs rules is ensured by exerting systematic control by customs authorities of upper level and their officials, by granting right to appeal and take other measures, established by the legislation of Ukraine

Article 328. Time Limits of Imposing Penalties in Cases of Violations of the Customs Rules

Administrative penalties in the forms of warning, fine may be imposed not later than within two month after date the violation of customs rules, and in case of continuing violation – not later than within two months from its detection.

Where a criminal case is not initiated or where a criminal case is ceased, but in actions of violator signs of violation of the customs rules are detected, penalties in the forms of warning or fine may be imposed not later than within one month after the customs authority receives materials stating that the criminal case was ceased.

Items aforementioned in clause three of Article 322 of this Code shall be confiscated irrespectively of the time of occurrence or detection of violation of customs rules.

CHAPTER 57. TYPES OF VIOLATIONS OF THE CUSTOMS RULES AND RESPONSIBILITY FOR SUCH VIOLATIONS

Article 329. Violation of the Regime of the Customs Control Zone

Movement of vehicles and goods or movement by persons, including state officials (except for customs officials), through and within the borders of the customs control zone, which do not cross the customs border of Ukraine, as well as maintenance works within such a zone without the permission of the customs authority or any other actions violating the regime of the customs control zone, -

shall be the reason, at the absence of goods and vehicles - direct objects of violation of the customs rules, for imposing penalty in the amount up to twenty minimum personal tax-free incomes.

The same actions, at the presence of goods or vehicles – direct objects of violations of the customs rules, shall be the reason for imposing a fine in the amount of 50 up to 150 minimum personal tax-free incomes.

Article 330. Failure to Submit the Documents Necessary for the Customs Control to the Customs Authority

Failure to submit within the term, established by legislation, documents, determined by this Code, to the customs authority for the customs control of goods and vehicles, moving across the customs border of Ukraine, regardless of whether the written declaration was submitted, -

shall be the reason for warning or imposing a penalty of up to five minimum personal tax-free incomes on natural persons and a penalty of up to ten minimum personal tax-free incomes on the enterprise officials.

Article 331. Release of Goods and Vehicles without Permission of the Customs Authority or Loss Thereof

Release of goods and vehicles, retained under the customs control without permission of the customs authority, or loss thereof, -

shall be the reason for imposing a penalty in the amount of 500 up to 1,000 minimum personal tax-free incomes.

Article 332. Failure to Deliver Goods, Vehicles and Documents to the Customs Authority

Failure to deliver goods and vehicles retained under the customs control and transported from one customs authority to another or taken for presentation to the customs authority of documents for such goods and vehicles, -

shall be the reason for imposing penalty in the amount of 50 up to 100 minimum personal tax-free incomes.

Article 333. Failure to Stop a Vehicle

Failure to stop a vehicle moving across the customs border of Ukraine in the customs control zone,-

shall be the reason for imposing penalty in the amount of up to five minimum personal tax-free incomes.

Article 334. Dispatch of Vehicle without Permission of the Customs Authority

Dispatch of a vehicle retained under the customs control without permission of the customs authority, -

shall be the reason for imposing penalty of up to five minimum personal tax-free incomes on natural persons and penalty of up to ten minimum personal tax-free incomes on enterprise officials.

Article 335. Mooring to Ships Retained under the Customs Control

Mooring to ships retained under the customs control by other ships or other vessels without permission of the customs authority, -

shall be the reason for warning or imposing penalty of up to twenty minimum personal tax-free incomes on natural persons and penalty of up to thirty minimum personal tax-free incomes on enterprise officials.

Article 336. Improper Operations with Goods and Vehicles Retained under the Customs Control, Changing of their State, Use and Disposal Thereof

Operations with goods, vehicles that are under customs control, namely changing their state, use and disposal of them, without permission of the customs authority, except for the situations provided for in Articles 331 and 337 of this Code, -

shall be the reason for imposing penalty on individuals in the amount of 50 up to 100 minimum personal tax-free incomes or confiscation thereof, and imposing penalty on enterprise officials in the amount of 100 up to 500 minimum personal tax-free incomes or confiscation thereof.

Article 337. Loading and other Operations Carried out without Permission of the Customs Authority

Loading, unloading, reloading, repairing damages of package, unpacking, repackaging of goods retained under the customs control or changing the identification signs or marking on such goods or on their packages without permission of the customs authority, -

shall be the reason for imposing penalty of up to ten minimum personal tax-free incomes on natural persons and penalty of up to twenty minimum personal tax-free incomes on enterprise officials.

Article 338. Damage to Customs Instruments or Loss Thereof

Damage to or loss of seals, stamps or other customs instruments, referred to in shipment documents, -

shall be the reason for imposing penalty of up to ten minimum personal tax-free incomes on natural persons and penalty of up to twenty minimum personal tax-free incomes on enterprise officials.

Article 339. Violations of the Procedure of the Customs Control in Simplified Customs Control Areas (Corridors)

Violations of the established in accordance with this Code procedure of the customs control in a simplified customs control area (corridor), in the situations where a natural person, who has chosen as a form of customs control passing through such a zone (corridor), carries goods forbidden or restricted for movement across the customs border of Ukraine or in quantities exceeding the non-taxable norms for movement across the customs border of Ukraine,-

shall be the reason for imposing penalty in the amount of 50 up to 100 minimum personal tax-free incomes or confiscation of such goods.

Article 340. Failure to Declare Goods or Vehicles

Failure to declare goods and vehicles moving across the customs border of Ukraine, i.e. failure to declare exact information (presence, name or title, quantity, etc.) on goods and vehicles subject to obligatory declaration at the movement across the customs border of Ukraine, -

shall be the reason for imposing penalty in the amount of 100 up to 1,000 minimum personal tax-free incomes or confiscation thereof, if the violator is a natural person, and in the amount of 500 to 1,000 minimum personal tax-free incomes or confiscation of such goods, vehicles, where the violator is an enterprise official.

Article 341. Sending Prohibited Goods by International Post or Express-mail across the Customs Border of Ukraine

Sending prohibited goods by International post or express-mail across the customs border of Ukraine, -
shall be the reason for confiscation of such goods.

Article 342. Preventing the Access of Customs Officials to Goods, Vehicles and Documents

Preventing the access of customs officials, at the process of customs control or in proceeding in a case of smuggling or violation of customs rules, to goods, vehicles and documents or failure to present within the term, established by legislation, without reasonable grounds such goods, vehicles and documents to a customs official or to an expert or specialist, appointed by such customs official, -

shall be the reason for imposing penalty of up to thirty minimum tax-free personal incomes.

Article 343. Failure to Submit to the Customs Authority a Report Concerning Goods Retained under the Customs Control or on the Territories of the Special Customs Zones

Failure by persons, referred to in Article 320 of this Code, to submit to the customs authority a report required by legislation concerning goods retained under the customs control or located in the special customs zones and imported, exported, stored, processed, produced, purchased or sold without a preliminary permission of the customs authority as well as violation of the procedure of reporting about such goods,-

shall be the reason for imposing penalty in the amount of three to thirty minimum tax-free personal incomes on natural persons and up to fifty minimum tax-free personal incomes on enterprise officials.

Article 344. Failure to Submit Documents and Goods Samples for Examination (Analysis, Expertise)

Failure to submit in cases, envisaged by legislation, the appropriate documents and goods samples required by customs authority, which are needed for examination (analysis, expertise), -
shall be the reason for warning or imposing penalty in the amount of up to thirty minimum tax-free personal incomes.

Article 345. Movement of Goods across the Customs Border of Ukraine with Violation of Intellectual Property Rights

Importation of goods into the customs territory of Ukraine or exportation of goods outside the customs territory of Ukraine for commercial purposes with violation of intellectual property rights, guarded by law, - shall be the reason for imposing penalty in the amount of ten to one hundred minimum tax-free personal incomes and confiscation of counterfeited goods on natural persons, and in the amount of thirty to one hundred and fifty minimum tax-free personal incomes on enterprise officials and confiscation of infringing goods.

Article 346. Violation of the Order of Storing Goods at Customs Licensed Warehouses and the Procedure for Operations with Such Goods

Violation of the established by legislation order for stowing goods at the customs licensed warehouses, failure to adhere to the terms, conditions and order for storing such goods, set forth by this Code, as well as carrying out operations with goods stored in licensed customs warehouses without the permission of the customs authorities, -

shall be the reason for imposing penalty in the amount of 500 up to 1,000 minimum tax-free personal incomes.

Article 347. Violation of the Procedure of Destruction (Extermination) of Goods

Violation of the established by legislation procedure of destruction (extermination) of goods retained under the customs control, i.e. failure to meet the established by this Code and other laws of Ukraine conditions, prohibitions and restrictions with regards to the destruction (extermination) of such goods, -

shall be the reason for imposing penalty in the amount of fifty to two hundred minimum tax-free personal incomes.

Article 348. Violation of the Obligation to Re-export or Re-import Goods

Failure to re-export from the customs territory of Ukraine goods, that were temporarily imported into the customs territory of Ukraine under the obligation to re-export, or failure to re-import into the customs territory of Ukraine goods, that were temporarily exported from the customs territory of Ukraine under the obligation to re-import, within the periods established in the appropriate obligations for re-exporting (re-importing) of such goods, -

shall be the reason for imposing penalty in the amount of 500 up to 1,000 minimum tax-free personal incomes or confiscation of such goods.

Article 349. Violation of the Obligation on Transit

Failure to export goods and vehicles from customs territory of Ukraine, provided they were imported for the purpose of transiting through the customs territory of Ukraine within the periods, defined by the customs authority, -

shall be the reason for imposing penalty of 500 up to 1,000 minimum tax-free personal incomes or confiscation of such goods and vehicles.

Article 350. Violation of the Prescribed Route for Movement of Goods

Violation of the route prescribed by the Cabinet of Ministers of Ukraine for movement of goods across the territory of Ukraine, -

shall be the reason for imposing penalty in the amount of fifty up to one hundred minimum tax-free personal incomes or confiscation of such goods.

Article 351. Actions, Aimed at Movement of Goods and Vehicles through the Customs Border of Ukraine out of the Customs Control

Actions, aimed at movement of goods and vehicles through the customs border of Ukraine out of the customs control, i.e. movement thereof through the customs border of Ukraine in places other than the location of a customs authorities or in the time other than the time for the customs clearance, or using unlawful exemption of goods from the customs clearance in the result of abuse of power by customs officials, -

shall be the reason for imposing penalty in the amount from 500 to 1,000 minimum tax-free personal incomes, or confiscation of such goods, as well as confiscation of vehicles used for transportation through the customs territory of Ukraine of goods – direct objects of violations of customs rules.

Article 352. Actions, Aimed at the Movement of Goods through the Customs Border of Ukraine Concealed from the Customs Control

Actions, aimed at the movement of goods through the customs border of Ukraine concealed from the customs control, i.e. by using specially manufactured (secret) hiding- places and other means and ways of impeding disclosure of such goods or by making one goods look like other goods, or submission to the

customs authority as grounds for movement of goods of forged documents or documents, obtained illegally or documents, containing false information, -

shall be the reason for imposing penalty in the amount from five hundred to one thousand minimum tax-free personal incomes or confiscation of such goods, as well as confiscation of goods with specially manufactured (secret) hiding places and confiscation of vehicles, used for transportation of such goods across the customs border of Ukraine.

Article 353. Storage, Transportation or Purchase of Goods and Vehicles Imported into the Customs Territory of Ukraine out of the Customs Control or Concealed from the Customs Control

Storage, transportation, purchase or usage of goods and vehicles imported into the customs territory of Ukraine out of the customs control or concealed from the customs control, -

shall be the reason for imposing penalty in the amount from 200 up to 500 minimum tax-free personal incomes or confiscation of such goods and vehicles.

Article 354. Usage of Goods Subject to Privileges on Payment of Taxes and Fees for Purposes other, than the Targeted

Usage of goods subject to privileges on payment of taxes and fees for purposes other, than the purpose of granting such privileges, -

shall be the reason for imposing penalty in the amount from 200 to 500 minimum tax-free personal incomes.

Article 355. Activities, Aimed at Illegal Exemption from Taxes and Fees or at Reduction of their Amounts

Declaring false data in customs declaration and submission of documents with such information to the customs authority as grounds for an exemption from taxes and fees or reduction of their amounts, or failure to pay taxes and fees within the time-periods, established by legislation, as well as other illegal actions, that resulted in taxes and fees arrears, where such actions do not constitute a criminal offence, -

shall be the reason for imposing a fine in the amount of one hundred up to five hundred minimum tax-free personal incomes on natural persons and from five hundred up to one thousand minimum tax-free personal incomes on enterprise officials.

SECTION XIX. PROCEEDINGS IN CASES ON VIOLATIONS OF CUSTOMS RULES

CHAPTER 58. PROCEEDINGS IN CASES ON VIOLATIONS OF CUSTOMS RULES

Article 356. Definition of Proceeding in Cases on Violations of Customs Rules

Proceedings in case on violation of customs rules shall include procedural measures, envisaged in Article 378 of this Code, consideration of the case and issuance of a writ with regard thereto.

Article 357. Legal Instruments for Proceedings in Cases on Violation of Customs Rules

Proceedings in cases on violations of customs rules shall be based on provisions of this Code, and in the part, which is not governed by this Code – in accordance with legislation of Ukraine on administrative violations.

Article 358. Initiation of a Case on Violation of Customs Rules

The moment a report on violation of customs rules is drawn shall be the moment a case on violation of customs rules is initiated.

Article 359. Officials, Authorized to Draw Reports on Violation of Customs Rules

The following persons are authorized to draw reports on violation of customs rules:

- 1) officials, authorized according to the personnel arrangements of a customs authority to make a customs control, customs clearance and release of goods and vehicles for the movement across the customs border of Ukraine and who directly detected a violation of the customs rules;
- 2) officials from the division organizing fight against smuggling and violations of customs rules of the specially authorized central body of executive power on customs practice, divisions for fighting against smuggling and violations of the customs rules of regional customhouses and customhouses, which have such a right in accordance with their service functions;
- 3) other officials, authorized by the head of the specially authorized central body of executive power on customs practice or by the Head of a regional customhouse.

Article 360. Reasons and Grounds to Initiate a Case on Violation of Customs Rules

There shall be the following reasons to initiate a case on violation of customs rules:

- 1) direct detection of violation of customs rules by customs authority officials;

- 2) notification of a violation of customs rules made by a person, received from other authorities (including customs authorities);
- 3) notification of violations of customs rules received from customs and law-enforcement bodies of foreign countries and international organizations.

Article 361. Language of Proceedings in Cases on Violation of Customs Rules

Proceedings in cases on violation of customs rules shall be in Ukrainian or the language of the population majority inhabiting this locality.

The persons participating in a case on violation of customs rules, who do not speak the language used in proceeding, can make declarations, explanations and petitions in their native language and use the services of an interpreter.

Article 362. Customs Officials Conducting Proceedings in Cases on Violations of Customs Rules

Officials from the divisions for fighting against smuggling and violations of customs rules of the customs authority, in the area of activities of which the violation is committed or detected, shall conduct proceedings in cases on violations of customs rules.

Officials from divisions for fighting against smuggling and violations of customs rules of the regional customhouse may conduct proceedings in any case on violation of customs rules, initiated by a customs authority subordinated to it.

Officials from the division for organizing fight against smuggling and violations of customs rules of the specially authorized central body of executive power on customs practice may conduct proceedings in any case of violation of customs rules initiated by any customs authority of Ukraine.

Article 363. Report on Violation of Customs Rules

An authorized officer of the customs authority, who has detected a violation of customs rules, in each case of detection of a violation of customs rules, draws a report.

Report on violation of customs rules shall include the following information:

- 1) the date and place the report is drawn;
- 2) position, the first, middle and last names of the person who has drawn the report;

- 3) the information about the person called to account for violation of customs rules that is necessary for considering the case, where such person is identified;
- 4) place, time and nature of the violation of customs rules;
- 5) reference to the article of this Code establishing responsibility for such violation;
- 6) last names and addresses of witnesses, where such witnesses exist;
- 7) information about goods, vehicles and documents seized in accordance with Article 377 of this Code;
- 8) other information needed to resolve the case.

The report is signed by the officer, who draws it. Where a person, made liable for violation of customs rules, is present when the report is signed, such person signs the report too, and where witnesses are present, they also sign the report.

Where the person, made liable for violation of customs rules, refuses to sign the report, the appropriate note shall be made in the report. The person, made liable for violation of customs rules, has the right to give explanations and express objections on the content of the report, explain in writing the reasons for refusal to sign the report. Such explanations, written by person, shall be added to the report with a note stating the quantity of pages used for such explanation.

The rights, envisaged in Article 366 of this Code for the persons, made liable for violation of customs rules, are explained to such persons with including the separate note signed by them to the report.

Where necessary the report shall also include information about the place and time of consideration of the case on violation of the customs rules.

The report is drawn in two copies, one of which is handed to the person, made liable for violation of customs rules, against his/her written confirmation.

Where the person, made liable for violation of customs rules, refuses to receive a copy of the report, an appropriate note is made in the report, signed by a person, who draws it and witnesses, where the latter exist, is made in the report. Such copy shall be sent to the address, notified by such person or available at the customs authority (place of residence or actual stay). The report shall be regarded as handed to such a person even if the person does not stay at the address notified by him/her or if such person gave false information about the address of his/her residence or actual stay.

Report as well as seized goods, vehicles and documents, indicated in the report, is passed to the customs authority in the area of activities of which the violation of customs rules was detected.

Article 364. Proceedings in Cases on Violations of Customs Rules on the Basis of Materials Received from other Law-Enforcement Bodies

Where a criminal case on smuggling is terminated with regard to a specific person, if in actions of such person signs of violation of customs rules are detected, the materials on such offence are passed to the customs authority or to the court so that such person should be called to administrative account.

Resolution on such case shall be taken within the terms envisaged by part 2 of Article 328 of this Code.

Article 365. Persons Participating in Proceedings in Cases on Violations of Customs Rules

The following persons participate in proceedings in cases on violations of customs rules:

- persons called to account for violations of customs rules;
- representatives of persons called to account for violations of customs rules (representatives acting by virtue of law, representative acting by virtue of power of attorney);
- defense attorney;
- witnesses;
- experts;
- interpreters;
- witnesses of inquest.

Article 366. Rights of Persons, Called to Account for Violations of Customs Rules

Persons called to account for violations of customs rules at the consideration of the case on the violation of customs rules in the customs authority or in the court shall have the right to access the materials of the case, make excerpts from them, make copies of decisions, resolutions and other documents included in the case, attend the consideration of the case at the customs authority and participate in court proceedings, submit evidences, participate in examination of evidence, make petitions and require challenge, recusation, make oral and written explanations, present their arguments, speculations and

objections, make appeals against resolutions of the customs authority and court decisions and enjoy other rights, granted them by law. The persons referred to in this article are obliged to use their procedural rights in good faith.

Article 367. Representatives of Persons, Called to Account for Violations of Customs Rules

The following persons may be representatives of the persons, called to account for violations of customs rules:

- 1) representatives by virtue of law: parents, adopters, guardians or trustees, who act on the basis of documents certifying their powers - in cases of minors or persons who due to their physical or mental deficiencies are unable to exercise their rights personally. Representatives by virtue of law may authorize other person selected by them to act as a representative;
- 2) other persons who act on the basis of a power of attorney certified by a notary. Individuals may also have their power of attorney certified at the enterprise where they work or at the department for management of buildings where they reside, military officers may also have such powers of attorney certified at the relevant military detachment, persons residing in places where there are no notaries may have such powers of attorney certified at the executive department of town or village council of people's deputies, persons undergoing medical treatment may have such powers of attorney certified at the relevant medical institution.

Personal participation of individuals in the consideration of cases does not affect their right to have representatives.

Representatives by virtue of law at the participation in the case shall enjoy all the rights referred to in Article 366 of this Code. The powers of other persons to participate in a case shall give them the right to commit on behalf of persons they represent all the acts referred to in Article 366 of this Code except for the right to transfer the powers to other persons (reassigning), right to appeal a resolution or decision of customs authority or court (judge), to receive goods or money where such goods or money are returned. The powers of a representative to commit each of the acts must be stipulated in the power of attorney issued to such representative.

The following persons may not be representatives of persons, called to account:

- 1) minors;
- 2) persons under guardianship;

3) attorneys who did not comply with the rules established in the legislation of Ukraine on advocacy when they undertook to render legal assistance, and persons excluded from the Bar.

Officials from the customs service of Ukraine, as well as judges, investigators and prosecutors may not represent persons called to account, except for cases when they act as parents, adopters, trustees or guardians of such persons.

Article 368. Defense Attorney

The defense attorney, who is determined by person, called to account, may participate in the consideration of the case on violation of customs rules, provided such defense attorney has due qualification in law and is authorized, in accordance with law, to render legal assistance personally or on behalf of a legal entity.

The defense attorney has the right:

- 1) to study the materials on the case;
- 2) to make petitions;
- 3) to lodge complaints;
- 4) to exercise other rights as envisaged by Law.

Article 369. Expert

Only individual possessing the knowledge required for making an appropriate conclusion may be an expert.

An expert shall be appointed by a customs authority officially conducting proceedings in case on violation of customs rules, where special knowledge is required.

Expert is obliged to give his unbiased conclusion on the matter of the expertise.

Expert shall have the right to:

- study the materials of the case dealing with the subject matter of the expertise;
- make petitions for additional materials necessary to make conclusions.

Article 370. Interpreter

Only an individual who knows the language required for interpretation in the proceedings in case on violation of the customs rules may be an interpreter.

An interpreter is obliged to interpret the required information exactly and comprehensively and to take part in procedural activities in case on violation of customs rules where necessary.

An official of the customs authority may act as an interpreter.

Article 371. Witness in Case on Violation of Customs Rules

Any individual may be a witness if there are reasons to believe that he/she is aware of circumstances that are to be discovered during proceedings in case on violation of customs rules.

Witness, if summoned by the authority conducting proceedings in case on violation of customs rules, is obliged to come to the authority at the time appointed by the latter and give detailed and truthful explanations, disclose all he/she knows about the case and answer all the questions asked.

Article 372. Witnesses of Inquest in the Procedures in Cases on Violation of Customs Rules

Witnesses of inquest are individuals invited to participate in procedural activities in cases on violation of customs rules.

Only persons having no interest in the case may be invited to act as witnesses of inquest. Relatives of the person called to account for violation of customs rules, relatives of representative of such person as well as customs officials may not be invited to witness.

Witnesses of inquest, while participating in procedural activities shall certify by their signatures that the notes included in the report correspond to the actual facts.

Article 373. Circumstances, Precluding Customs Official from Conducting Proceedings in the Case on Violation of Customs Rules

A customs official may not conduct case proceedings if he/she is a relative of the person called to account for violation of customs rules, his/her representative, other persons participating in case proceedings and if there are other circumstances that give reasons to believe that this official may be interested in a case outcome.

Head or deputy Head of division for fighting against smuggling and violations of customs rules may solve the matter of transferring the case on violation of customs rules for the other official to conduct proceedings.

Where Head of division for fighting against smuggling and violations of customs rules of the customs authority conducting proceedings in case on violation of customs rules is a relative of the person called to account for violations of customs rules, representative of such person, other persons participating in proceedings, as well as if there are other circumstances giving reasons to believe that Head of such division may have personal interest in a case, the case is subject to transfer to another customs authority for proceedings in a case.

CHAPTER 59. ADMINISTRATIVE DETENTION

Article 374. The Purpose of and Procedure of Administrative Detention

In order to stop the violation of customs rules, to detect a person violating customs rules and to draw a report on violation of the customs rules, where it is impossible to draw it at the place of violation, administrative detention for the period of up to three hours may be applied to an individual, who made a violation.

Administrative detention of the individual, who committed a violation of customs rules, is made by customs authority official on the basis of the decision of the Head of customs authority or his/her deputy, Head of division for fighting against smuggling and violations of customs rules of the customs authority, Head or deputy Head of a customs check-point and, where all of these persons are absent (at night time, on days off and holidays, etc.), on a basis of a decision of the Head of the division or the shift on duty.

Military servicemen and law-enforcing officers are obliged to render assistance to the customs authority officials, performing administrative detention in cases of resistance or attempted escape from the place of violation.

The term for administrative detention is calculated from the moment the person is conveyed to the service premises of the customs authority or to other premises where the obligatory actions aimed at the objectives referred to in part 1 of this Article may be done. Where the individual is intoxicated such term is calculated from the moment he/she gets sober.

For an individual staying in service premise of the customs authority or other premises with the purpose of the customs control or customs clearance, the term of administrative detention is calculated from the moment such customs control or clearance is completed.

A report on administrative detention is drawn in the form, worked out by the specially authorized central body of executive power on customs practice. Where physical force or special appliances were used the note thereof is to be included in the report. The copy of the report is handed to the detained individual. Parents or persons, who substitute them, are obligatory notified about the detention of the minors.

CHAPTER 60. PROCEDURAL ACTIONS IN CASES ON VIOLATIONS OF CUSTOMS RULES AND PROCEDURE THEREOF

Article 375. The Objective of Procedural Actions

Procedural actions in cases on violation of customs rules are taken in order to obtain evidence required for correct resolution of the case.

Procedural actions include:

- 1) drawing a report on violation of customs rules;
- 2) requisition of documents necessary for proceedings in case on violation of customs rules;
- 3) seizure of goods, vehicles and documents;
- 4) customs examination;
- 5) presentation of goods, vehicles and documents for identification;
- 6) assigning an expertise;
- 7) taking samples for examination (analysis, expertise).

In taking the procedural actions referred to in clauses 3 - 5, 7, of part 21 of this Article reports in the forms, established by the specially authorized central body of executive power on customs practice, shall be drawn.

Article 376. Requisition of Documents Necessary for Proceedings in Case on Violation of Customs Rules

Customs authority official conducting proceedings in case on violation of customs rules has the right to request documents, necessary for a case consideration.

The person, whom the request for submission of documents is addressed, is obliged to forward such documents to the customs authority official within five days.

Article 377. Seizure of Goods, Vehicles and Documents

Goods – direct objects of violation of the customs rules, goods with special (secret) hiding-places used for concealing direct objects of violation of the customs rules from the customs control, vehicles used for transporting of goods – direct objects of violation of customs rules, across the customs border of Ukraine, as well documents relevant to the case on violation of customs rules, are subject to seizure.

Where customs rules are violated by a person who does not have any permanent place of residence in Ukraine or address it shall be allowed to seizure goods, vehicles in the amount needed to ensure collection of a fine or value of goods, vehicles mentioned in part 3 of the Article 405 of this Code.

The seized goods, vehicles and documents shall be listed in the report drawn in the cases stipulated in this Code, or a description attached thereto with accurate indication of the quantity, measurement, weight, and specific features of these goods, vehicles, and documents, and, the value of the seized goods and vehicles.

Article 378. Customs Examination and the Procedure Thereof

Customs authority officials who have sufficient reasons to believe that on the locations or in premises of enterprises or in vehicles, belonging to such enterprises there are goods – direct objects of violation of customs rules, or goods with specially manufactured (secret) hiding-places, used for concealing direct objects of violation of customs rules from the customs control, vehicles use for movement across the customs border of Ukraine of direct objects of violation of customs rules, as well as documents, necessary for consideration of a case on violations of the customs rules, shall have the right to examine such locations, premises or vehicles.

Customs examinations are made in presence of the enterprise officials mentioned in part 1 of this Article.

Officials of customs authorities have the right to invite any specialist to participate in such examination.

The event of customs examination shall be reflected in the report that shall be drawn up in accordance with the form established by the specially authorized central body of executive power on customs practice.

Article 379. Presentation of Goods, Vehicles and Documents for Identification

Customs authority official, conducting proceedings in case on violation of customs rules may take a decision to present goods, vehicles and documents relevant to the case for identification to the person, who committed such violation, and to witnesses.

The persons, participating in the process of identification, are first asked questions about the circumstances involved when they have seen such goods, vehicles and documents referred to in part 1 of this Article and about the features of such goods that make it possible to identify them.

Goods, vehicles and documents shall be presented for identification within a group of homogeneous goods, vehicles and documents.

Witnesses of inquest shall be invited to attend presentation for identification.

Wherever goods, vehicles and documents are presented for identification a report thereon shall be drawn up pursuant to the format established by the specially authorized central body of executive power on customs practice.

Article 380. Expertise and Conclusion of an Expert

Expertise is assigned, if to clarify questions, arising in a case on violation of customs rules, there is a need for special knowledge in certain areas of science, technology, art, religion, etc.

Expertise is conducted by experts of customs laboratories or other institutions or individual specialists, appointed by the customs authority official, conducting proceedings in a case on violation of customs rules.

The questions put before an expert and his/her conclusions shall not fall beyond the special knowledge of an expert. The expert gives his/her conclusion in writing and on his/her behalf. The conclusion shall include the information about the nature of the research carried out by the expert and the grounds for the answers, given in reply to the questions put before an expert.

Wherever an expert, during performance of expert evaluation, detects circumstances relevant to the case, but not covered by the questions put before him/her, such expert shall have the right to describe such circumstances in his/her conclusion.

The customs authority official, conducting proceedings in a case on violation of customs rules, is not required to act in compliance with the conclusion of an expert. Where the customs authority official disagrees with such conclusion, he/she shall include in the resolution on the case the reasons for such disagreement.

Where the conclusion of an expert is of insufficient quality or is not comprehensive, a re-expertise may be prescribed with another expert (experts) carrying out such expertise.

Article 381. The Procedure for Assigning an Expertise

Wherever the customs authority official, conducting proceedings in a case on violation of customs rules, decides that an expertise is necessary he/she approves a resolution, determining the reasons for such expertise, the last name of the expert or the name of the customs laboratory or other appropriate institution where such expertise is to be carried out. Such resolution shall also include the questions to be answered to in the course of the expertise and indicate what materials are to be transferred to the expert's disposal.

Before appointment of an expert, necessary information on his/her professionalism and competence shall be obtained.

Decision on assigning an expertise is binding upon an expert and officials of the enterprise where such expert works.

Article 382. Taking Samples for Expertise to be Carried out

The customs authority official, conducting proceedings in a case on violation of customs rules, shall have the right to take from persons called to account for violation of customs rules samples of their signatures and handwritings as well as goods samples necessary for expertise to be carried out.

Where necessary, such samples may be taken from persons other than those referred to in Part I of this Article, if the testimony of such persons and their participation in the examination and evaluation of circumstances of violation of customs rules may be of substantial importance for a case proceedings and consideration on a case.

The customs authority official, conducting proceedings or considering a case on violation of customs rules shall approve a resolution on taking samples.

An expert may be invited to participate in taking samples where necessary.

A report on taking samples shall be drawn.

Article 383. Instruction to Perform Certain Procedural Actions

The customs authority official, conducting proceedings in a case on violation of customs rules shall have the right to instruct a customs official of other customs authority to perform certain procedural actions.

Such instruction must be implemented within five days after it is received.

Article 384. Expenses in Cases on Violation of Customs Rules

Expenses in cases on violation of customs rules shall consist of expenses for stocktaking, storage, transportation (mail delivery) of goods mentioned in clause 3 of the Article 322 of this Code, and of expenses made by the customs authority in connection with the proceedings or consideration of the case.

Such expenses shall also include the sums paid to an expert for his/her duties and work, performed in accordance with instructions of the customs authority, per diems and reimbursement of transportation to and from the customs authority and reimbursement of premises rent payments.

The workers and employees summoned to the customs authority as witnesses, experts and interpreters shall continue to receive their average salary at the place of their main employment. Persons who are neither workers nor employees and who are summoned by the customs authority shall receive money reimbursement paid by the customs authority in connection with such summons.

The legislation of Ukraine shall establish the procedure of expenses and the amounts of sums to be paid.

Article 385. Reimbursement of Expenses in Cases on Violation of Customs Rules

The reimbursement of expenses in a case on violation of customs rules is made by a person, concerning which the resolution or decision on the application of sanctions, is taken. Expenses, made to pay for the interpreting services are reimbursed at the cost of the State budget of Ukraine.

The customs authority official, carrying out the proceedings in a case on violation of customs rules as well the customs authority official considering the case, shall gather and append to the case the documents about the expenses for the case proceedings.

The expenses subject to reimbursement shall be indicated in a resolution of the customs authority or a decision of court in a case on violation of customs rules.

Article 386. Bodies, Authorized to Consider Cases on Violation of Customs Rules

Customs authorities shall consider cases on violation of customs rules provided for in Articles 329- 335, 337, 338, 342-344, 346, 347, 354, 355 of this Code.

Local courts (judges), located in the area of activities of the customs authorities, the officials of which carry out the proceedings, shall consider cases on violation of customs rules provided for in Articles 336, 339 - 341, 345, 348 - 353 of this Code, as well all cases on violations of customs rules committed by persons aged from sixteen to eighteen.

Article 387. Powers of Customs Authority Officials in Considering Cases on Violations of Customs Rules

Heads or deputy Heads of regional customhouses and customhouses shall consider cases on violation of customs rules on behalf of such customhouses and the officials of the division for fighting against smuggling and violations of customs rules, empowered by the head or his\her deputies of the specially authorized central body of executive power on customs practice shall consider cases on violation of customs rules on behalf of the specially authorized central body of executive power on customs practice.

Article 388. Places for Consideration of Cases on Violations of Customs Rules

The case on violation of customs rules shall be considered in the place of location of the customs authority in the area of which the violation was committed.

Article 389. The Time Limits for Considering a Case on Violation of Customs Rules

A case on violation of customs rules shall be considered within fifteen days from the moment a customs authority official or a court (judge) receives the materials necessary for the case to be considered.

Article 390. Presence of the Person, Called to Account for Violation of the Customs Rules or a Representative thereof, at Consideration of a Case

A case on violation of the customs rules, where possible, is considered in the presence of the person, called to account for violation of customs rules, or his\her representative.

The customs authority shall inform by the corresponding written notification the person, called to account for violation of customs rules, about the time and place of case consideration in the customs authority premises, if such person was not notified thereof in the course of handing over the copy of the report on violation of customs rules.

Where a consideration of a case takes place before a court, the court (judge) notifies the person, called to account, and the relevant customs authority about the time and place of consideration.

The case on violation of customs rules may be considered during the absence of the person called to account only when there is available information on in-time notification to the person called to account with regard to the place, time of case consideration and if there is not any received petition of such person on postponing the case consideration.

Article 391. Types of Resolutions (Decisions) in Cases on Violation of Customs Rules

The customs authority or court, considering the case on violation of customs rules, shall take one the following resolutions (decisions):

- 1) on additional examination;
- 2) on the imposition of administrative penalty;
- 3) on suspension of proceedings in case;
- 4) on the initiation of a criminal case on smuggling.

A resolution (decision) on additional examination indicates specific subjects, objectives and terms of examination. Such actions may not infringe upon the rights of the person and damage business activities of the legal entity.

Article 392. Peculiarities of Consideration of Cases on Violation of Customs Rules by Courts

A sole judge shall consider a case on violation of customs rules.

In cases on violations of customs rules a court (judge) shall take one of the decisions provided for in part I of Article 391 of this Code.

If as a result of verification of legal and factual grounds for a court decision in case on violation of customs rules, the decision is canceled and the case is terminated or penalties for violation of customs rules are changed, confiscated goods, vehicles, sum of the fine or its relevant part shall be returned to persons, called to account or representatives thereof. If it is impossible to return confiscated goods or vehicles in kind, the value thereof must be returned, with the sums of taxes and fees due at the rates valid at the date of confiscation, deducted from such value. The State Treasury of Ukraine shall return the sums mentioned in this part from the State budget of Ukraine.

CHAPTER 61. APPEALS ON RESOLUTIONS AND DECISIONS OF CUSTOMS AUTHORITIES IN CASES ON VIOLATION OF CUSTOMS RULES. SUBMISSION OF PROSECUTOR'S PROPOSALS TO RESOLUTIONS AND DECISIONS

Article 393. Appeals on Resolutions and Decisions on Cases on Violation of Customs Rules

Any resolution and decision on cases on violation of customs rules may be appealed by the person such resolution applies to or his/her representative.

A resolution of the customhouse subordinated to a regional customhouse may be appealed to the relevant regional customhouse or to the local court, located in the area of activities of the customhouse, which has taken the resolution.

Resolution of regional customhouse on appeals to a resolution of customhouse subordinated thereto may be appealed to the specially authorized central body of executive power on customs practice or to the court, located in the area of activities of such regional customhouse.

Resolution of regional customhouse and customhouse of the direct subordination may be appealed to the specially authorized central body of executive power on customs practice or to the court at the place of location of the relevant regional customhouse or customhouse.

If in situations referred to in parts 2, 3 and 4 of this Article a resolution of a customs authority is appealed to a superior customs authority and to a court simultaneously and the court initiates proceedings on the basis of such appeal, the superior customs authority shall cease the consideration of such appeal.

A resolution of the specially authorized central body of executive power on customs practice in a case on violation of customs rules or its resolution on an appeal to a resolution of other customs authority on such case may be appealed to the local court at the place of location of the specially authorized central body of executive power on customs practice.

An appeal to a resolution of a customs authority is submitted not later than in ten days after the interested person receives a copy of resolution on the case or is notified of the decision taken. Where there are valid reasons for submission of such appeal later, the regional customhouse, the specially authorized central body of executive power on customs practice or a court, as appropriate, may permit such submission on the application of the interested person.

The Code of Ukraine on Administrative Offences and other laws establish the procedure for appeals to decisions of courts (judge) on case of violation of customs rules and submission by the prosecutor of the protest with regard to the issued decisions.

Article 394. Verification of Legal and Factual Grounds for a Resolution of the Customs Authority

A court or a superior customs authority may verify legal and factual grounds for a resolution of the customs authority with regard to the case on violation of customs rules on the basis of a submitted appeal and on the basis of a protest submitted by a prosecutor.

A court or a customs authority may take one of the following decisions as a result of verification:

- 1) that the resolution should remain unchanged and the appeal or protest should be rejected;
- 2) that the resolution should be abolished and the case should be forwarded for new consideration;
- 3) that the resolution should be abolished and the case should be terminated;
- 4) that the penalty should be changed, but not increased, within the limits of responsibility envisaged for such kind of violations of customs rules.

Decisions referred to in part 2 of this Article may be taken by customs authorities in forms of resolutions.

The copy of the decision on the filed appeal or prosecutor's protest against the resolution issued in the case on violation of customs rules shall be sent within three days to the person it applies to. The prosecutor, who made the protest, shall be informed of the results of the protest consideration.

Where a resolution of the customs authority in a case on violation of customs rules is abolished, the sums of fines paid shall be returned to persons, called to account, or his/her representatives by the State Treasury of Ukraine from the State budget of Ukraine on the basis of an application from customs authorities.

Article 395. Grounds for Abolishment or Amendment of a Resolution on Imposition of a Penalty for Violation of Customs Rules

The grounds for abolishing resolution on the imposition of a penalty or suspension of further proceedings in case on violation of customs rules are as follows:

- 1) the activities of a person, called to account for violations of customs rules, do not constitute any violation of customs rules;
- 2) proceedings are biased or incomplete or consideration of the case was biased;
- 3) conclusions made in the resolution are not consistent with the facts in the case;
- 4) the resolution was approved by unauthorized person, the person, called to account or representative thereof was not permitted to participate in the consideration of the case with no valid reasons, and also other restriction of the rights of participants of the proceedings in case on violation of custom rules if such restriction impeded comprehensive consideration of the case and influenced or could influence the resolution on the basis of such consideration;

5) the committed violation was not qualified correctly or the qualification of the violation is incomplete;

6) a penalty imposed is not envisaged in this Code.

Other circumstances, if determined by laws, may be considered as grounds for abolishment or amendment of a resolution on imposition of a penalty or on suspension of further proceedings in a case on violation of customs rules.

Article 396. The Time Limits for Considering by Superior Customs Authorities of an Appeal or a Prosecutor's Protest to a Resolution of a Customs Authority

Appeal and prosecutor's protest in a case on violation of customs rules shall be considered within ten days upon their receipt by authorized officials unless otherwise provided by law.

Article 397. Consequences of Submission of Appeal or Protest

Submission of an appeal or a prosecutor's protest shall suspend the implementation of a resolution of a customs authority in cases on violation of customs rules until the verification of such resolution is completed.

CHAPTER 62. EXECUTION OF RESOLUTIONS OF CUSTOMS AUTHORITIES ON IMPOSITION OF PENALTIES IN CASES ON VIOLATIONS OF CUSTOMS RULES

Article 398. Binding Nature of Resolutions of Customs Authorities on Imposition of Penalties in Cases on Violations of Customs Rules

Resolutions of customs authorities on imposition of penalties in cases on violations of customs rules are binding.

Article 399. General Provisions on the Procedure of Execution of a Resolution of a Customs Authority on Imposition of a Penalty for Violation of Customs Rules

Resolution of a customs authority on imposition of a penalty for violation of customs rules shall be implemented after the deadline for appeals, provided for in Article 393 of this Code has expired.

The resolution of the customs authority on imposition of a penalty for violation of customs rules is executed by a state executor, except for instances specially outlined in this Code when its execution is the sole competence of the customs authority that issued the resolution.

Where a customs authority takes several resolutions on imposition of penalties for violation of customs rules concerning the same person, each resolution is executed separately.

Article 400. Limitation Period for Execution of a Resolution of a Customs Authority on Imposition of a Penalty for Violation of Customs Rules

Resolutions of customs authorities on imposition of penalties for violations of customs rules may not be executed after a three months period from the time such decisions or resolutions were taken.

Article 401. Control over Execution of a Resolution of a Customs Authority on Imposition of a Penalty for Violation of Customs Rules

The customs authority, that has taken the resolution, controls correct and timely execution of a resolution of a customs authority on imposition of a penalty for violation of customs rules.

Article 402. The Procedure for Execution of a Resolution of a Customs Authority on Warning

A resolution of a customs authority on imposition of a warning as a penalty for violation of customs rules is executed by the customs authority that has taken such a resolution by way of declaring such resolution to the violator and handing over a copy of such resolution to the violator.

Where a resolution of a customs authority on imposition of a warning as a penalty for violation of customs rules is taken with the violator being absent, the copy of such resolution shall be handed over to the violator or forwarded thereto within three days after it has been taken.

Article 403. The Procedure for Execution of a Resolution of a Customs Authority on Imposition of a Fine

The person, committed a violation of customs rules, pays a fine within fifteen days after a resolution of the customs authority on imposition of a fine has been handed over or sent to such person. Where such resolution is appealed or protested, the person pays the fine within fifteen days after the appeal or protest has been ignored or rejected.

The person, committed a violation of customs rules, transfers the amount of the fine to the State budget of Ukraine according to the procedure, established by legislation of Ukraine.

Article 404. Compulsory Execution of a Resolution of a Customs Authority on the Imposition of a Fine

Where the fine is not paid within the time limits established in Article 403 of this Code, the resolution issued by the customs authority or decision of the court (judge) shall be sent to the district, municipal (city with the oblast status), district (within a city) executive service department to enforce execution thereof.

If the execution of a resolution on imposition of a fine is completed by the empowered authority, the resolution with an appropriate note, made in such resolution is returned to the customs authority or court (judge) that approved such resolution.

The amounts of fines are transferred to the State budget of Ukraine.

The person who violated customs rules shall, regardless of the levied fine, pay taxes and fees established by laws of Ukraine.

Article 405. The Procedure for Execution of a Court (Judge's) Decision on Confiscation

The decision of the court (judge) to impose administrative penalty for violation of customs rules shall be executed by the state executor in the part of confiscation, and in compliance with the procedure established by law.

The goods and vehicles, seized by the customs authority, provided the court (judge) has issued the decision on the confiscation thereof, shall be passed to the state executor.

Where it is impossible to confiscate goods being direct objects of violations of customs rules, or goods with specially prepared (secret) hiding places used to conceal direct objects of violation of customs rules from customs control, vehicles used to transport direct objects of violation of customs rules through the customs border of Ukraine, persons who violated customs rules shall pay value of the mentioned goods, vehicles according to the procedure set forth by legislation of Ukraine.

Expenses incurred by the customs body in the result of storing goods, vehicles provided the resolution on their confiscation was passed with regard thereto, shall be reimbursed by the person who violated customs rules, pursuant to the procedure established by law.

Article 406. Execution of a Resolution of a Customs Authority on Imposition of a Penalty for Violation of Customs Rules on Persons Residing or Staying Out of the Territory of Ukraine

Resolution of a customs authority on imposition of a penalty for violation of customs rules on persons, residing or staying out of the territory of Ukraine, shall be executed at the cost of the property, located in the territory of Ukraine, of such persons.

If no property in Ukraine belongs to persons referred to in part I of this Article, the procedure for execution of resolutions of customs authority on imposition of penalties to such persons shall be established in the legislation of Ukraine and international agreements with countries where persons, called to account for violations of customs rules, reside or stay.

SECTION XX. EMPLOYEES OF CUSTOMS AUTHORITIES, SPECIALIZED CUSTOMS INSTITUTIONS AND ORGANIZATIONS

CHAPTER 63. OFFICIALS OF THE CUSTOMS SERVICE OF UKRAINE

Article 407. Officials of the Customs Service of Ukraine

The officials of the Customs Service of Ukraine are employees of the customs authorities, specialized customs institutions and organizations of Ukraine, whom, according to this Code and other laws of Ukraine, entrusted the implementation of customs practice, organizational-administrative and consulting-advisory functions and who have been awarded special ranks.

Article 408. Legal Status of the Customs Officials of Ukraine

The legal status of customs officials of Ukraine, their rights and obligations are determined by the Constitution of Ukraine, this Code and in the part, which is not regulated by it, - by the Law of Ukraine "On the State Service".

Article 409. Binding Nature of the Lawful Orders and Requirements of the Customs Officials of Ukraine

Lawful orders and requirements of customs officials of Ukraine are of a binding nature.

Article 410. Service and Special Ranks of the Customs Officials of Ukraine

Procedures and conditions for the recruitment to serve in customs authorities, specialized customs institutions and organizations, order and conditions of the service, promotion of officials, compensation and incentives for their work in customs authorities, specialized customs bodies and organizations is established by Ukrainian legislation.

The customs service of Ukraine shall have a Disciplinary Regulations, approved by a law.

Ukrainian customs officials shall be subject to attestation. Attestation procedures shall be determined by the Cabinet of Ministers of Ukraine.

Ukrainian customs officials shall be given the special ranks pursuant to their positions and years of service:

- Actual State councilor of the customs service;
- State councilor of the customs service of I rank;
- State councilor the customs service of II rank;
- State councilor of the customs service of III rank;
- Councilor of the customs service of I rank;
- Councilor of the customs service of II rank;
- Councilor of the customs service of III rank;
- Inspector of the customs service of I rank;
- Inspector of the customs service of II rank;
- Inspector of the customs service of III rank;
- Inspector of the customs service of IV rank;
- Inspector of the customs service;
- Junior Inspector of the customs service;
- Cadet.

The special rank of the Actual State councilor of the customs service is given by the President of Ukraine upon submission of the Cabinet of Ministers of Ukraine.

The special ranks of State councilors of the customs service of I,II,III ranks are given by the President of Ukraine upon submission by the head of the specially authorized central body of executive power on customs practice.

The special ranks of the councilors of the customs service of I,II, III ranks, inspectors of the customs service of I,II,III,IV ranks and inspectors and junior inspectors of the customs service are given by the head of the specially authorized central body of executive power on customs practice.

The special rank of a Cadet is given by the heads of relevant customs training institutions run by the specially authorized central body of executive power on customs practice.

The procedure for giving special ranks shall be specified by Regulations about special ranks of the officials of the customs service of Ukraine, which are approved by the Cabinet of Ministers of Ukraine.

Customs officers shall wear a single type uniform with appropriate insignia. Models of the uniform, uniform provision rules and use terms are approved by the Cabinet of Ministers of Ukraine, and uniform wear rules are prescribed by the specially authorized central body of executive power on customs practice. Uniforms are provided on a free-of-charge basis.

Article 411. Working Hours of the Customs Officials of Ukraine

The working hours for customs officials of Ukraine are established by Ukrainian labor legislation.

For the purposes of implementing urgent customs control measures, customs clearance, prevention of smuggling and violations of customs rules, and fulfillment of other service tasks, the officials of customs authorities of Ukraine may be engaged, by an order of the Head or deputy Head of a customs authority, to work overtime, and during night hours, on holidays and weekends. For working overtime, during night hours, on holidays and weekends, customs officials shall be compensated pursuant to the current legislation.

Article 412. Recruitment for the Service in Customs Authorities, Specialized Customs Institutions and Organizations

Citizens of Ukraine, who have attained the age of 18 and are able, considering their business and moral traits, level of education and state of health, to accomplish goals the customs service of Ukraine is charged with, shall be recruited to serve in customs authorities, specialized customs institutions and organizations. A trial period of up to six months may be applied upon admittance to the service.

Persons who have non-expunged convictions for willful crimes may not be recruited to serve in customs authorities, specialized customs institutions and organizations.

Officials of the customs service of Ukraine, who have been found guilty of a felony by a court verdict that has entered into force, shall be discharged from the service at customs authorities, specialized customs institutions and organizations.

Customs officials are obliged to act only on the grounds, within the limits of their authorities and in the manner, envisaged by the Constitution of Ukraine, this Code and laws of Ukraine.

Article 413. Oath and Solemn Commitment of Customs Officials of Ukraine

Persons who are admitted to the civil service positions in customs authorities, specialized customs institutions and organizations for the first time shall take the Oath of the Civil Servant.

Employees who are given special ranks of the customs service of Ukraine for the first time shall take the following solemn commitment:

"Entering the customs service, I solemnly swear to be devoted to the Ukrainian people, the cause of Ukrainian Statehood, to unalterably abide by the requirements of the Constitution of Ukraine, the Customs Code of Ukraine and Ukrainian legislation. I promise to actively protect the interests of Ukrainian State, its economic sovereignty and security, to strictly follow discipline rules, thoroughly and on the high professional level fulfill my official duties and responsibilities, preserve the state secrets, and protect the rights, freedoms and legitimate interests of citizens".

The solemn commitment procedure shall be prescribed by the specially authorized central body of executive power on customs practice.

Article 414. Prohibition for Membership of Ukrainian Customs Officials in Political Parties

Officials of the customs service of Ukraine may not be members of political parties.

Customs officials shall not have the right to organize strikes and participate therein, undertake other actions that interfere with the normal functioning of customs authorities, specialized customs bodies and organizations.

Article 415. Restrictions on Outside Employment and Business Activities

Officials of the customs service of Ukraine shall not have the right to:

1) engage in any business activity, directly or through the intermediates or men of straw, and have any outside employment (except for scientific research, teaching, creative work and medical practice);

- 2) be a member of, or act through an intermediate or man of straw, in management boards and other executive bodies of enterprises, financial and credit institutions, business associations etc., organizations, societies, associations, cooperatives, which are engaged in business activities;
- 3) act as a fiduciary of third parties on customs practice;
- 4) use their official positions for providing any unspecified by Ukrainian legislation assistance to the individuals and legal entities in their foreign economic and other business activities.

Article 416. Restrictions in Work Associated with Control of Work of Close Relatives

Officials of customs authorities may not hold positions, which envisage the adoption of decisions regarding the activities of enterprises – customs brokers, customs carriers, owners of customs licensed warehouses and temporary storage warehouses, - as well as have service relations with such enterprises, if close relatives of such officials are the officials of these enterprises.

CHAPTER 64. TRAINING, RETRAINING AND EXTENSION COURSES FOR THE EMPLOYEES OF THE CUSTOMS SERVICE OF UKRAINE

ARTICLE 417. The System of Training, Retraining and Extension Courses for the Employees of the Customs Service of Ukraine

The system of training, retraining and extension courses for employees of the customs service of Ukraine ensures:

- 1) training of scientists, researchers and teachers;
- 2) training of customs specialists with a higher education;
- 3) retraining of employees of customs authorities, specialized customs institutions and organizations;
- 4) extension courses for the employees of customs authorities, specialized customs institutions and organizations;
- 5) internships for young specialists, newly hired employees and the personnel reserve;
- 6) self-education of officials of the customs service of Ukraine.

The specially authorized central body of executive power on customs practice ensures, that employees of the customs service of Ukraine undergo training, re-training and extension courses in certain disciplines in higher educational institutions on the basis of government contracts. Curricula and programs for training, re-training and extension courses shall be determined by the specially authorized central body of executive power on customs practice, based on the needs of customs authorities, specialized customs institutions and organizations and requirements to the level of education and qualifications of employees, and shall comply with law.

Article 418. Customs Educational Institution

A customs educational institution is a specialized customs establishment, with subordination to the specially authorized central body of executive power on customs practice, which trains and re-trains, as well as provides the extension courses for the employees of the customs service of Ukraine pursuant to this Code and other laws of Ukraine.

Article 419. Faculty Members, Heads and Specialists of Educational Institutions

Faculty members, heads and specialists of customs educational institutions shall be employed according to the conditions and procedures, established by this Code and other laws of Ukraine. Faculty members are employed on a competitive basis.

Obligations, rights and benefits provided for the officials of the customs service of Ukraine shall extend to faculty members, heads and specialists of customs educational institutions.

Faculty members shall be subject to attestation in an order, established by the specially authorized central body of executive power on customs practice agreed with the central body of executive power in educational and scientific matters.

Specialists of customs authorities, specialized customs institutions and organizations may be involved in teaching at customs educational institutions.

Article 420. Cadets (Students) and Attendees of Customs Educational Institutions and Other Higher Educational Institutions, Which Prepare Specialists for the Customs Service of Ukraine

Only citizens of Ukraine, who are admitted to studies pursuant to the effective legislation, and nationals of other countries, who are admitted to studies pursuant to the international agreements of Ukraine concluded pursuant to the procedure set forth by law, may be cadets (students), attendees of customs

educational institutions and other higher educational institutions, which prepare specialists for the customs service of Ukraine.

Cadets (students), attendees, graduate students of higher educational institutions, who undergo training, retraining and extension courses for further work within the customs service of Ukraine, may be granted an additional social and financial support from the costs of the specially authorized central body of executive power on customs practice. Cadets (students) of the daytime form of education shall be deferred from drafting into the Armed Forces of Ukraine for the entire period of education in accordance with law.

Graduates of customs educational institutions and other higher educational institutions, which prepare specialists for the customs service of Ukraine, shall be employed in an order, determined by the legislation of Ukraine.

Article 421. Financing of Training, Retraining and Extension Courses for Employees of the Customs Service of Ukraine

Training, retraining and extension courses for the employees of the customs service of Ukraine shall be financed from the State budget of Ukraine.

CHAPTER 65. LEGAL PROTECTION OF THE EMPLOYEES OF CUSTOMS SERVICE OF UKRAINE

Article 422. Guarantees of Protection of Life, Health and Property of the Customs Officials of Ukraine

Officials of the customs service of Ukraine shall be protected by law. The Law of Ukraine “On the State Protection of Employees of Courts and Law Enforcement Bodies”, Criminal Code of Ukraine and Code of Ukraine on administrative offences determine protection of life, health, honor, dignity and property of such officials and members of their families against criminal offenses and other illegal actions.

CHAPTER 66. APPLICATION OF PHYSICAL FORCE, SPECIAL DEVICES AND WEAPONS BY OFFICIALS OF THE CUSTOMS SERVICE OF UKRAINE

Article 423. General Provisions as to the Application of Physical Force, Special Devices and Weapons by the Customs Officials of Ukraine

Inviolability of a person, his\her protection against any violence, other cruel treatment is guaranteed by the state.

Physical force, special devices and weapons shall be used by customs officials of Ukraine exclusively in cases, specified by the Code.

In order to ensure the lawful application of physical force, special devices and weapons by customs officials of Ukraine, special training exercises and periodic inspections of readiness for such action shall be conducted in accordance with this Code and orders of the specially authorized central body of executive power on customs practice.

Article 424. Application of Physical Force

Officials of the customs service of Ukraine shall have the right to use physical force in the following cases:

- 1) to stop violations of customs rules, detain persons who have committed such violations, overcome obstruction to lawful orders or demands of customs officials of Ukraine;
- 2) to gain entry to premises or places where goods and vehicles, which are under customs control, are located;
- 3) to stop other actions that interfere with the discharge of duties imposed on customs officials of Ukraine by this Code, if non-violent methods of influence do not ensure the fulfillment of such duties.

Article 425. Application of Special Devices

Customs officials of Ukraine shall have the right to use handcuffs, rubber sticks, tear gas, devices for the opening of premises, means for forced stopping of vehicles and other special tools in the following cases:

- 1) to repulse an assault on customs officials of Ukraine or other persons;
- 2) to repulse an assault on buildings, constructions, facilities and vehicles, in possession or used by the customs authorities, specialized customs institutions and organizations, as well as on goods and vehicles that are under customs control, and to free the mentioned objects in case of their capture;
- 3) to detain and take offenders to service premises of a customs authority, a specialized customs institution or organization if such persons resist and otherwise obstruct, or may inflict harm onto surrounding persons or themselves;
- 4) to stop physical resistance to customs officials of Ukraine;

5) to enter premises where contraband items and direct objects of violation of customs rules may be located;

6) to stop a vehicle whose driver has not fulfilled a demand by the customs official of Ukraine to stop.

It shall be prohibited to use special devices in respect of women, who have obvious signs of pregnancy, persons with obvious signs of disability and underage persons, except for cases of commitment by them of armed resistance, group assault endangering human life and health, protection of goods and vehicles that are under customs control.

The list of special devices that is used by officials of the customs service of Ukraine and the procedure for their application shall be approved by the Cabinet of Ministers of Ukraine.

Article 426. Keeping, Carrying and Use of Firearms by Officials of the Customs Service of Ukraine

Some categories of customs officials of Ukraine, established in the list approved by the Cabinet of Ministers of Ukraine, shall have the right to keep, carry and use firearms.

Procedures of use of firearms by customs officials of Ukraine shall be governed by Regulations, approved by the Cabinet of Ministers of Ukraine.

The list of kinds of firearms and ammunition therefore provided for use by customs officials of Ukraine shall be approved by the Cabinet of Ministers of Ukraine.

CHAPTER 67. SOCIAL PROTECTION OF EMPLOYEES OF CUSTOMS AUTHORITIES, SPECIALIZED CUSTOMS INSTITUTIONS AND ORGANIZATIONS

Article 427. Social Guarantees for Officials of the Customs Service of Ukraine

The state shall guarantee social protection, material and maintenance securing for officials of the customs service of Ukraine.

In the event of sustaining any crippling injury or disability, or death of a customs official in line of duty in the result of an accident this person or his/her heirs shall be paid compensation in the order and amounts determined by legislation

Article 428. Guarantees of Labor Remuneration of the Officials of the Customs Service of Ukraine

The state shall guarantee labor remuneration of the officials of the customs service of Ukraine in order to create sufficient financial conditions for their independent and diligent discharge of their service duties.

Labor remuneration of the officials of the customs service of Ukraine consists of money securing, including a position-based wage, monthly special rank and service length bonuses, wage increments and bonuses and other types of additional payments and benefits.

Article 429. Provision of Housing to the Officials of the Customs Service of Ukraine

Officials of the customs service of Ukraine, who need better housing, shall enjoy a priority right to obtain such housing. This right is also applicable to the retired officials of the customs service of Ukraine with not less than 20 years term of service in customs authorities of Ukraine.

Customs authorities, specialized institutions and organizations may have a service pool of housing which is formed in the manner specified by the Cabinet of Ministers of Ukraine.

In the event of death of a customs official in line of duty, the family of the deceased shall retain the right to obtain housing under the same conditions and grounds, which existed on the date of death of such an official.

Customs officers of Ukraine shall have the right to obtain, at the place of residence or work, interest-free loans for the individual or cooperative construction of housing and acquisition of a home for a term up to 20 years, with repayment of 50% of the obtained loans from budgetary funds.

Article 430. Pension Security of Employees of Customs Authorities, Specialized Customs Institutions and Organizations

Pension security of officials of the customs service of Ukraine shall be provided pursuant to the conditions and procedures specified by the Law of Ukraine "On the State Service".

Pension security of employees of customs authorities, specialized customs institutions and organizations, who are not officials, shall be provided on the basis of general grounds in accordance with the Ukrainian legislation on pension security.

Article 431. Payments and Compensation in Case of Crippling Injury and Disease, Compensation of Damages

Pursuant to the legislation of Ukraine, the specially authorized central body of executive power on customs practice shall compensate employees of customs authorities, specialized customs institutions

and organizations for damages sustained by them due to a crippling injury or other harm to health connected with discharge of their service duties.

Article 432. Guarantees in the event of Death of an Employee of Customs Authority, Specialized Customs Institution or Organization

In the event of death of an employee of a customs authority, a specialized customs institution or organization in the course of discharge of his\her duties, the disabled family members, who were dependents of the deceased, shall be paid by social insurance bodies a monthly compensation in the amount of a difference between a portion of wages the deceased spent to provide for them and the survivor benefits awarded as a result of loss of the breadwinner, disregarding the lump sum payment.

SECTION XXI. FINAL PROVISIONS

1. The Customs Code of Ukraine shall enter into force on January 1, 2004.

(clause 1 of Section XXI as amended by Law of Ukraine
N 348-IV of December 24, 2002)

2. Till the time normative acts are set into correspondence with this Code, they shall be applicable in parts, which do not contradict to this Code.

3. Cabinet of Ministers of Ukraine shall:

submit for consideration of Verkhovna Rada of Ukraine proposals for setting other legislative acts Ukraine in correspondence with this Code;

set its normative legal acts in correspondence with this Code;

ensure setting of normative legal acts of ministries and other central bodies of executive power in correspondence with this Code;

ensure, in its part, publication of normative legal acts, envisaged by this Code.

4. Upon the entry into force of this Code, the following shall become ineffective:

The Law of Ukraine 'On Customs Practice in Ukraine' (Vydomosti Verkhovnoyi Rady Ukrainy, 1991, ¹ 44, p. 575; 1994, ¹ 20, p. 116; 2000, ¹ 13, p. 109);

The Law of Ukraine 'On Exemption from Customs Duties of Goods, Exported (Sent) by Individuals outside the Customs Border of Ukraine' (Vydomosti Verkhovnoyi Rady Ukrainy, 1996, N26, p.114);

The Customs Code of Ukraine (Vydomosti Verkhovnoyi Rady Ukrainy, 1992, ¹ 16, p. 203; ¹ 35, p. 511; 1993, ¹ 11, p. 91; ¹ 12, p.107; 1994, ¹ 20, p. 116; 1995, ¹ 13, p. 85; 1997, ¹ 35, p. 218; 1999, ¹ 34, p. 274; 2000, ¹ 13, p.109, N 38, p.318, N 50, p.436; 2001 N 4, p.16, N 23, p.117, N31, p.148);

The Resolution of the Verkhovna Rada of Ukraine 'On entering into force of the Customs Code of Ukraine' (Vydomosti of the Verkhovnoyi Rady Ukrainy 1992, N 16, p.204);

The Resolution of the Verkhovna Rada of Ukraine 'On Entering into Force of the Law of the Ukrainian Soviet Socialist Republic On Customs Practice in the Ukrainian Soviet Socialist Republic' (Vydomosti Verkhovnoyi Rady Ukrainy 1991, N 44, p.576);

The Resolution of the Verkhovna Rada of Ukraine 'On entering into Force the Law of Ukraine On Exemption from Customs Duties of Goods, Exported (Sent) by Individuals Outside the Customs Border of Ukraine (Vydomosti Verkhovnoyi Rady, 1996, N26, p.115)

Resolution of the Verkhovna Rada of Ukraine of February 5, 1992 ¹ 2099-Ŕ²² "On Personal Ranks of the State Customs Service of Ukraine" (Vydomosti Verkhovnoyi Rady Ukrainy, 1992, ¹ 19, p. 261).

President of Ukraine

L. KUCHMA

**Kyiv
July 11, 2002
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